

E. Tamilmani, Dr. P. Viswanathan and R. Gunasekaran Vs The State of Tamil Nadu and Others

Court: Madras High Court

Date of Decision: July 22, 2009

Acts Referred: Constitution of India, 1950 " Article 14
National Council for Teacher Education Act, 1993 " Section 32

Hon'ble Judges: Prabha Sridevan, J; C.T. Selvam, J

Bench: Division Bench

Advocate: Nalini Chidambaram, SC for Arun Natarajan, for the Appellant; G. Sankaran, Spl.G.P.(Edn) for RR1 to 3, K. Ramakrishna Reddy, for R4 and R.N. Amarthan, for R6 and R7, for the Respondent

Final Decision: Dismissed

Judgement

Prabha Sridevan, J.

The issue to be considered in this writ appeal is the construction of words ""in the concerned subject"" contained in the notification issued by the Teachers" Recruitment Board and Director of collegiate Education for direct recruitment of lecturers for Government Arts

and Science Colleges and Colleges of Education.

2. Originally, the University Grants Commission had prescribed qualification for the post of lecturers and the same was adopted as per G.O.Ms.

Nos. 111, 112, 113 Higher Education Department dated 24-03-1999 which reads as follows:

i) The minimum requirements of a good academic record, 55% of the marks at the Masters Level and qualifying in the National Eligibility Test

(NET) or an accredited test, shall remain for the appointment of Lecturers.

ii) A relaxation of 5% may be provided from 55% to 50% of the marks, at the Masters Level for the SC/ST categories.

iii) A relaxation of 5% may be provided from 55% to 50% of the marks to the Ph.D., degree holders who have passed their masters degree prior

to 19th September, 1991.

The following amendment was directed to be added under the Heading of Recruitment and qualification.

The following amendment to G.O.Ms. Nos. 111, 112 and 113 Higher Education Department, dated 24.3.99 has been issued in Government

Letter No. 11555/H1/2006-1 dated 15.9.2006 based on the letter from the Joint Secretary, University Grants Commission, New Delhi, D.O.

Letter No. F1-1/2-2/(PS) Exemmp. Dated 14.6.2006.

Amendment

NET or SLET or an accredited Test shall remain the compulsory requirement for appointment as Lecturer for those with post-graduate degree.

However, the candidates having Ph.D. Degree in the concerned subject are exempted from NET or SLET or an accredited Test for PG level and

UG level teaching. The candidates having M.Phil. degree in the concerned subject are exempted from NET or SLET or an accredited Test for UG

level teaching only.

The qualification for the post of lecturer in Colleges of Education as per NCTE norms and the relevant time are as follows:

..(i) M.Ed/M.A. (Education) with minimum 55% marks and B.Ed.

OR

Master's degree in a school subject with minimum 50% marks and M.Ed./M.A(Education) with 55% marks and B.Ed.
Note:

(i)..

(ii) Apart from the qualification prescribed above for lecturer, the candidates shall have to qualify NET/SLET qualification or alternative

qualifications thereto as prescribed by UGC from time to time before the commencement of the academic session 2009-2010.

In the prospectus issued to the candidates serial No. 4 read as follows:

6. ...a) All candidates other SC/ST: Candidates with (i) Postgraduate degree in the Subject with minimum 55% marks and (ii) a pass in the

UGC/CSIR/JRF/NEt Lecturership test or State Level Educational Testing (SLET), (OR)

b) For, SC/ST candidates: Candidates with (i) Postgraduate degree in the Subject with minimum 50% marks and (ii) a pass in the

UGC/CSIR/JRF/NET Lecturership Test or State Level Educational Testing (SLET), (OR)

Candidates with (i) Postgraduate degree in the Subject with a minimum of 50% marks and (ii) M.Phil. Or Ph.D. degree or both, are eligible to

apply.

2. According to the Government, the word in the subject meant "Education" as far as the Colleges of Education were concerned and possessing

M.Phil. degree or Ph.D. in subjects other than "Education" will not be the qualification that is required and if they had not passed M.Phil./Ph.D. in

"Education", the applicants had to pass NET or SLET otherwise they would not be qualified.

3. The learned Senior Counsel appearing for the appellant submitted that the words "concerned subject" cannot be referred to be "Education" and

it can only be ""the concerned subject"" which the applicant intends to teach. Therefore, the refusal to consider them though they satisfy the criteria is

not justified. It is also submitted that subsequent to the date of notification or the date of the interview, the candidates have obtained M.Phil in

Education and in particular Gunasekaran(3rd appellant) had obtained the SLET qualification. The learned Senior counsel would therefore submit

that in similar circumstances, the Board had appointed Lecturers who did not possess the requisite qualification but had acquired it before the

commencement of the academic year and therefore, the same indulgence may be shown to the appellants herein.

4. The learned Government Pleader submitted that the appointments have been made strictly in accordance with the qualifications mentioned in the

Notification and the possession of NET/SLET qualification is a must where applicants do not possess the Ph.D. degree in ""the concerned subject

or an M.Phil. degree in the concerned subject"". They should possess the qualification on the date of application for the post and the possession of

the same before the commencement of the academic session would not satisfy the criteria laid down in the Notification dated 18-09-2006. The

learned Special Government Pleader also submitted that the candidates did not satisfy the eligibility criteria on the date when the appointment was

considered. The objection relating to ""concerned subject"" must be rejected.

5. We see that the Notification was a common Notification both for Government Arts and Science Colleges and the Colleges of Education and the

vacancy for lecturers are for subjects like English, Mathematics, Physics etc. and Education (Tamil), Education (English), Education (Maths),

Education (Physical Science), Education (History) and Education (Geography)etc. That means the subject codes mentioned as F01 to F22 would

be the concerned subject for the Government Arts and Science Colleges and the subject codes from F23 to F34 will be the concerned subject for

applicants as applicable for colleges of education because the applicants are expected to be trained in educating in that subject. That is why their

M.Phil or Ph.D must be in "Education(Tamil) or Education (English)" etc. and the concerned subject should be Tamil, English or as th case may

be. For clarification, the relevant column from the Notification is extracted hereunder:

Direct Recruitment of Lecturers

for Govt. Arts & Science Colleges and Colleges of Education (2006-07)

...

2. Scale of Pay: Rs. 8000-275-13500

The Estimated Vacancies for Lecturers including backlog vacancies, are as follows:

Sl. Sub Subject

No. Code

1 FO1 Tamil

2 FO2 English

3 FO3 Mathematics

4 FO4 Physics

5 FO5 Chemistry

6 FO6 Botany

7 FO7 Zoology

8 FO8 History

9 FO9 Geography

10 F10 Economics

11 F11 Commerce

12 F12 Home Science

13 F13 Political Science

14 F14 Statistics

15 F15 Sociology

16 F16 Geology

17 F17 Music

18 F18 Public Administration

19 F19 Electronic Science

20 F20 Computer Science

21 F21 Bio-chemistry

22 F22 Microbiology

23 F23 Education (Tamil)

24 F24 Education(English)

25 F25 Education (Maths)

26 F26 Education(Biological Sci)

27 F27 Education(Physical Sci)

28 F28 Education (History)

29 F29 Education (Geography)

30 F30 Education (Education)

31 F31 Education (Economics)

32 F32 Education(Logic)

33 F33 Education (Computer Sci)

34 F34 Education(Home Sci)

Total

6. Next we come to the requirement of SLET or NET. We have already extracted the relevant rules and it shows that NET or SLET will remain

the compulsory requirement for appointment of lecturer or if a person has a Ph.D., in the concerned subject he will be exempted from NET or

SLET or an accredited test for UG level and PG level teaching. The candidates having M.Phil. Degree in the concerned subject are exempted from

NET or SLET or an accredited Test for UG level teaching only. It was objected on the side of the appellants, the criteria imposed by the State is

not in line with National Council for Teacher Education (NCTE in short) and that NCTE requires the qualification to be acquired only before the

commencement of the academic session whereas the State insists upon the possession of NET or SLET on the date of application. The appellants

possess the qualification prescribed for the post of Lecturer as per the guidelines of NCTE. NCTE has framed regulations u/s 32 of the NCTE

Act, 1993 for the post of lecturer prescribing qualification which is as follows:

(i) M.Ed./M.A.(Education) with minimum 55% marks and B.Ed. OR Master's degree in a school subject with minimum 50% marks and

M.Ed./M.A(Education) with 55% marks and B.Ed.

(ii) Two years" school teaching experience is desirable.

Note:

(i) There shall be relaxation in minimum percentage of marks for SC/ST/OBC/Other categories as per the rules of the Central/concerned State

Government/UT Administration.

(ii) Apart from the qualification prescribed above for lecturer, the candidates shall have to qualify NET/SLET qualification or alternative

qualifications thereto as prescribed by UGC from time to time before the commencement of the academic session 2009-2010.

The notification of the State is in consonance with the norms as approved by the NCTE. Therefore, we see no reason to interfere with the order of

the learned Single Judge.

7. The appellants would further submit that Gunasekaran, who possesses the requisite qualification may be considered for the post. The learned

Special Government Pleader submits that it will not be possible to accommodate him since all the vacancies are filled up. So even if this is true, it

may not be possible to fit him his year. All the appellants may make a representation giving the details of their qualification and the date on which

they had acquired the same and if the respondents find that any one or all of them possess the required qualification even on that date of application

then it is for the Government to consider whether the candidates shall be considered without further test for the next academic year. As far as those

candidates who had acquired the qualification subsequent to the date of interview, if there is a wrong order passed in the case of certain

respondents that cannot be a ground to treat others equally. The application of Article 14 of the Constitution of India will not arise in such cases. It

is for the Government to consider the their cases for the next academic year.

8. The writ appeal is dismissed. However, there will be no order as to costs. The connected miscellaneous petitions are closed.