

(2013) 11 MAD CK 0136

Madras High Court (Madurai Bench)

Case No: Writ Petition (MD) No. 17585 of 2013 and M.P. (MD) No's. 1, 1, 2 and 2 of 2013

D. Poongothai

APPELLANT

Vs

The State of Tamil Nadu and The
Teachers Recruitment Board

RESPONDENT

Date of Decision: Nov. 27, 2013

Hon'ble Judges: S. Nagamuthu, J

Bench: Single Bench

Advocate: Ajmal Khan, for Ms. Ajmal Associates in W.P. MD No. 17585/2013 and Mr. Isaac Mohanlal in W.P. MD No. 17802/2013, for the Appellant; V.R. Shanmuganathan, Special Government Pleader, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

S. Nagamuthu, J.

Since the common issues are involved, both the matters have been heard together and they are disposed of by way of this common order. The Teachers Recruitment Board has called for applications from eligible candidates for direct recruitment of Post Graduate Assistants/Physical Education Directors - Grade I for Government Higher Secondary Schools 2012-2013. The petitioners have applied for the post of Post Graduate Assistants in Economics and Commerce respectively. According to the petitioners, they participated in the examination and got required cut off marks. They were also called for certificate verification. But, the petitioners have not been selected. The grievance of the petitioners is that since they studied P.G. Degree as well as B.Ed. course in Tamil Medium, they should have been given preference, as per the "Tamil Nadu Appointment on Preferential Basis in the Services under the State of Persons Studied in Tamil Medium Act, 2010" (hereinafter referred to as "the Act"). But, the petitioner have not been given the benefit of the said Act. Therefore, they are before this Court with these writ petitions.

2. It is contended by the petitioners that as per Section 2(d) of the Act, they are the persons who studied in Tamil Medium and thus, they are entitled for the benefits of the Act. But, a detailed counter has been filed by the first respondent, wherein it is stated that the petitioners are not entitled for the benefits of the Act, since they do not fall under those categories of "persons studied in Tamil Medium". In order to substantiate this contention, it is stated that admittedly the petitioners did not do their U.G. courses in Tamil Medium. It is the further contention of the first respondent that the provisions of such act would be made applicable only to those persons, who have studied U.G., P.G. and B.Ed. degree Courses in Tamil Medium.

3. It is also stated in the counter that as per the annexure to Rule 7(a) of the Special Rules for the Tamil Nadu Higher Secondary Educational Service (hereinafter referred to as "the Special Rules"), the qualification prescribed for appointment to the post of P.G. Assistants in Academic subjects by Direct Recruitment is that the candidate must have obtained a Bachelors Degree and Masters Degree in the same subject or its equivalent in respect of which recruitment is made and B.T., or B.Ed. Degree of a University in the State or a teaching degree of equivalent standard. It is further stated that the candidate, applying for the post of P.G. Assistant in a subject, should have necessarily completed U.G. and P.G. in the said subject and additionally, must have completed B.Ed. degree also. Since the petitioners had not studied U.G. course in Tamil Medium, according to the counter, the petitioners are not entitled for the relief.

4. I have heard the learned counsel for the petitioners and the learned Special Government Pleader, appearing for the respondents. I have also perused the records carefully.

5. The post of P.G. Assistant is governed by the Special Rules, issued under G.O.Ms. No. 720, Education Department, dated 28.04.1981. As per Rule 7(a) of the Special Rules, no person shall be eligible for appointment to the categories specified in column (1) of the Annex by the method specified in column (2) against each, unless he possesses the qualifications specified in the corresponding entries in column (3) thereof on the 1st day of July of the year in which selection for appointment is made.

6. Now, as per annexure to Rule 7(a), the qualification prescribed for the category of Teachers in academic subjects is as follows;

Name of the category

Method of category

Qualifications for recruitment

Teachers in Academic subjects

Direct Recruitment and Recruitment by transfer

(i) A Master's Degree of a University in the State or a Master's Degree of equivalent standard in the subject in respect of which recruitment is made:

Provided that other things being equal preference shall be given to those who have studied the same subject in which he/she has obtained the Post-graduate Degree, as Main subject under Part III in the Bachelor's Degree level.

provided further that persons holding the certificate issued by the University of Madras for having undergone the certificate course in Science and Humanities for graduate teachers in high schools shall be considered for appointment as Teachers in the subject relating to Science and Humanities;

Provided also that for appointment to certain subjects in which Master's Degree are not awarded, persons possessing Master's Degree in other subjects as may be considered by the Director of School Education, shall be considered; and

(ii) B.T. or B.Ed. Degree of University in the State or a Degree of equivalent standard

7. A plain reading of the above provision would make it very clear that the qualification prescribed is essentially a P.G. degree in the subject with B.Ed. degree. As per the proviso to sub clause (i), if other things being equal, preference shall be given to those who have studied the same subject in which he/she has obtained P.G. degree as main subject under part III in the Bachelor's degree level. Therefore, as per the said Rule, it is not at all necessary that the candidate should have studied the same subject both in U.G. level and in P.G. level and it is enough, if the candidate had studied the subject in P.G. level and obtained a P.G. degree. For example, for the post of P.G. Assistant in Commerce, it is suffice, if the candidate has secured P.G. degree in Commerce. In addition to that, if he had obtained the U.G. also in the same subject viz., Commerce, he will be given preference, when there are more than one candidates, who are equally poised. Thus, having the same subject in both the levels is only a preferential qualification and it is not an essential qualification. I have to repeat that the qualification prescribed in the said Rule is only Master's Degree in the subject in respect of which recruitment is made.

8. Let us now go into the provisions of Section 14 of the Act. As a matter of fact, before coming into force of the said Act, the Government had issued G.O.Ms. No. 145, Personnel and Administrative Reforms (S) Department, dated 30.09.2010, provided for Horizontal reservations for the persons studied in Tamil Medium. Replacing the same, the Act came into being with effect from 29.11.2010. One of the objects of the said Act, as found in the Statement of Objects and Reasons, is as follows;

Whereas in order to facilitate a conducive environment for the populace to prefer Tamil Medium of instruction at all levels of education, appointment to any services under the State on preferential basis of persons studied in Tamil Medium is a rational classification.

9. Thus, from a reading of the above Objects and Reasons of the Act, it is crystal clear that with a view to encourage the populace to pursue their education in Tamil Medium, the said legislature decided to give preference in the matter of appointment to Government services to those who had studied in Tamil Medium.

10. Section 2(c) of the Act defines the term "persons studied in other Medium", which reads as follows;

"Persons studied in other Medium" means persons who have obtained the educational qualification or qualifications prescribed for direct recruitment in the Rules or Regulations or orders applicable to any appointment in the services under the State through any Medium of Instruction other than Tamil.

11. Section 2(d) of the Act defines the "persons studied in Tamil Medium", which reads as follows;

"Persons studied in Tamil Medium" means persons who have obtained the educational qualification or qualifications prescribed for direct recruitment in the Rules or Regulations or orders applicable to any appointment in the services under the State through Tamil Medium of instructions.

12. Section 3 of the Act, which provides for preferential treatment for the candidates, who had studied in Tamil Medium, reads as follows;

3. Preferential appointment.-(1) Notwithstanding anything contained in any law for the time being in force and subject to Section 5, twenty percent of all vacancies in appointment in the services under the State which are to be filled through direct recruitment shall be set apart on preferential basis to persons studied in Tamil Medium.

(2) Selection for appointment under sub-section (1) shall be made in such manner as may be prescribed.

(3) Nothing contained in sub-section (1) shall apply in the case of appointment to the posts in the services under the State for which the educational qualification prescribed in the Rules or Regulations or orders applicable to the post is a degree or diploma or any academic distinction in a language.

13. A comprehensive reading of the entire Act, more preciously Sections 2 and 3 of the Act would go to show that the persons, who studied in Tamil Medium, are entitled for preference in the matter of appointment.

14. As we are able to see in the definition clause, as the term "person studied in Tamil Medium", the candidate should have obtained the educational qualification or qualifications prescribed for direct recruitment in Tamil Medium. In this context, we have to refer to the Special Rules. As I have already pointed out, the qualifications prescribed for the direct recruitment to the post of Post Graduate Assistant is a Master's Degree in the said subject with B.Ed. degree in the same subject.

Therefore, if a candidate has studied P.G. course and B.Ed. course in the relevant subject in Tamil Medium, then he will fall within the definition of the persons studied in Tamil Medium, as defined in Section 2(d) of the Act. If a particular candidate had studied the U.G. course also in the same subject in the matter of selection, he will have preference, when there are more than one candidate, who have got equal merit. Therefore, in my considered opinion, a plain reading of the Special Rules and the Act would go to show that it is not at all necessary that to get the benefits of the Act, one should have studied in Tamil Medium both in the U.G. level as well as in P.G. level, besides B.Ed. level. I hold that it is suffice that the candidate has studied P.G. course and B.Ed. course in Tamil Medium. The medium of instructions in U.G. level is immaterial. If the recruitment is to the post of B.T. Assistant, then only the candidate should have studied in Tamil Medium in U.G. as well as in B.Ed. level.

15. In view of the above, in the instance cases, since the petitioners, who have applied for the post of P.G. Assistants, have studied in Tamil Medium in P.G. level as well as in B.Ed. level, they are entitled for the benefit of Section 3 of the Act. In the result, these writ petitions are allowed with a direction to the respondents to give the benefit of Section 3 of the Act. The respondents should issue appointment orders to them by giving preference, provided they satisfy the other qualifications and merits. No costs. Consequently, connected miscellaneous petitions are closed.