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D. Poongothai Vs The State of Tamil Nadu and The Teachers Recruitment Board

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

Court: Madras High Court (Madurai Bench)

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.