(2014) 11 MAD CK 0562

Madras High Court

Case No: Writ Petition Nos. 25352 to 25355 of 2013 and M.P. No. 1 of 2013

T. Sharmila	APPELLANT
Vs	
The Secretary	RESPONDENT

Date of Decision: Nov. 20, 2014

Hon'ble Judges: M.M. Sundresh, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

M.M. Sundresh, J.
As the issue involved in all these writ petitions is one and the same, they have been taken up together and disposed of by way of a common order.

2. The petitioners are few of the candidates, who have applied to the respondent for appointment by direct recruitment to the posts included in the Combined Subordinate Services Examination-I for the years 2011-12 and 2012-13. The notification was issued in Notification No. 19()A/2012 dated 13.6.2012. As per the said notification, applications were invited through online mode upto 13.7.2012. Clause 3(B)(a) of the notification speaks about the educational qualification. It also states that the candidates should possess the qualification on the date of the qualification viz., 13.6.2012. All the petitioners wrote their examinations much prior to the notification. However, they got their results declared on 27.6.2012 ■ after the publication notification. After their results were declared the petitioners applied online before the expiry of the last date i.e., 13.7.2012. They were permitted to write the written Examination. It is not in dispute that they scored high marks. They were also called for the interview. However, by a subsequent decision in pursuant to the meeting held on 6.11.2013 the respondent made a decision to reject the applications of the petitioners on the ground that the petitioners" result having been declared after the date of the notification their applications should be rejected. Seeking a direction to the respondent to consider the claim of the petitioners for appointment by accepting the Degree Qualification as satisfying the educational qualification and well

within the cut-off date the present writ petitions have been filed.

3. Mr.L.Chandrakumar, learned counsel appearing for the petitioners submitted that what is relevant is the qualification per se. Admittedly the petitioners have acquired the qualification much prior to the date of applications made by them. They wrote the examination prior to the notification. When once the results were published it will relate back to the date of notification. The petitioners are highly qualified and they have been selected on merit. Therefore, the petitioners will have to be considered for appointment. In support of his contention, learned counsel made reliance upon the Order passed by this Court in W.P.No. 18573 of 2010 dated 2.9.2010, wherein it has been held as follows:

""4. The stand taken by the respondents in the counter affidavit is that to be eligible for consideration for promotion to the post of Graduate Assistant, one must have obtained the requisite qualifications as on 01.01.2010. According to the respondents, the petitioner is not eligible for consideration as on 01.01.2010, since he did not qualify before the said date.

5. But, the above stand of the respondents is actually fallacious. The acquisition of educational qualification would always be with reference to the date on which the last examination was taken by the candidate. In this writ petition, there is no denial of the fact that the petitioner wrote the qualifying Examination in December 2009, but the results were published only in May 2010. The moment results are published, they would relate back to the date of the 1st Examination. Therefore, the stand taken by the respondents that the petitioner should have actually obtained the degree before 01.01.2010 is not sustainable.

6. In view of the above, this writ petition is allowed, directing the respondents to consider the petitioner as eligible for recruitment to the post of Graduate Assistant, provided all other conditions are satisfied. There shall be no order as to costs. Consequently, M.P.Nos. 1 and 2 of 2010 are closed.""

4. Per contra, Mr.N.S.Nandakumar, learned counsel appearing for the respondent submitted that the notification governs the case on hand. Though the petitioners completed their degree on 27.6.2012, the crucial date is the qualification as on the date of the notification, which is 13.6.2012. Learned counsel in support of his contention has made reliance upon the following decisions:

""(1) U.P. Public Service Commission U.P., Allahabad and Another Vs. Alpana, ;

(2) Rajasthan Public Service Commission Vs. Kaila Kumar Paliwal and Another, ;

(3) Ashok Kumar Sharma and Others Vs. Chander Shekhar and Another, ."

5. The facts involved in this case before us are not in dispute. Admittedly, the petitioners wrote the Examination prior to the issuance of notification and they also got their results

published much prior to the date of their applications. It is also not in dispute that on merits the petitioners are entitled to get the selection and the consequential postings. Much reliance has been made on the Clauses 3(B)(a) of the Notification, which prescribes the educational qualification, as on the date of the notification viz., 13.6.2012 and Rule 12-B of the General Rules of Tamilnadu State and Subordinate Service Rules. Considering the same, this Court is of the view that the Rule 12-B of the Rules as well as the notification dated 13.6.2012 are to be read in consonance with the last date of the application which is 13.7.2012. In other words, the clause 3(B)(a) of the Notification read with Rule 12-B of the General Rules do not prohibit an application made with prescribed qualification as on 13.7.2012. Therefore, the crucial date will have to be reckoned with respect to the date of the application made. The notification does not prohibit a candidate who is otherwise qualified on the date of the application from being considered. What is required for a candidate is to apply with a qualified degree. Admittedly, on the date of the applications, the petitioners were qualified. A technical interpretation cannot be given more so, in a case, where the petitioners were allowed to apply, write the examination, found to be qualified and thereafter called for interview. The object and rationale behind the rules and the notification is that unqualified person cannot be permitted to apply. Therefore, the said object has been satisfied by the petitioners in the present case.

6. The decisions relied upon by the learned counsel for the respondents are not applicable to the cases on hand. In those cases, admittedly, on the date of the application, the candidates were not qualified. In other words, they got the qualification after writing the examination. The fact situation is different before us. Therefore, considering the same, this Court is of the view that the petitioners are entitled to succeed as they were qualified with respect to the degree obtained by them on the date of their application. In such view of the matter, this Court is inclined to allow the writ petitions.

7. Accordingly, the writ petitions stand allowed and consequently the respondent is directed to consider the claim of the petitioners for appointment in Combined Subordinate Services Examination-I based upon their performance. The appropriate orders will have to be issued by the respondent within a period of eight weeks from the date of receipt of copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.