

V.Dharmalingam Vs. the Secretary

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Court : Chennai

Decided On : Nov-10-2011

Judge : K.Chandru, J.

Acts : [Constitution of India](#) - Articles 14, 16

Appeal No. : W.P.(MD)No.6543 of 2010 and M.P.(MD)Nos.1 and 2 of 2010

Appellant : V.Dharmalingam

Respondent : The Secretary

Judgement :

1. The petitioner was an applicant for the post of Lecturer coming under the Tamil Nadu Collegiate Educational Service. The petitioner completed his M.A. And M.Phil. in Tamil. He had also passed out the National Eligibility Test conducted by the University Grants Commission. He had registered himself for doing Ph.D. in Tamil in National College affiliated to Bharathidasan University.

2. It is the contention of the petitioner that the Teachers' Recruitment Board called for applications for recruitment to the post of Assistant Professors coming under the Tamil Nadu Collegiate Educational Service for the year 2010. The petitioner also applied for the said post. However, the petitioner found that subsequent to the notification, the State Government had given directives as to how the selection should be made. Even in the advertisement issued by the Teachers' Recruitment Board, dated 29.03.2010, in column No.11 of the prospectus, the scheme of

selection has been notified, pursuant to the Government Order issued by the State Government in G.O.Ms.No.412, Higher Education (F2) Department, dated 04.12.2009. It was indicated therein that the teaching experience in various institutions will be given 2 marks for each year of service subject to a maximum of 15 marks and insofar as the educational qualification is concerned, for Ph.D. in the concerned subject-9 marks, for M.Phil with SLET/NET-6 marks, for P.G. & NET/SLET-5 marks and the interview will carry 10 marks.

3. It is the grievance of the petitioner that while he is having the qualification for the said post, viz., having a post graduate degree with SLET/NET qualification, he was awarded 5 marks. The persons, who are possessing Ph.D., have been granted 9 marks. This, according to the petitioner, is arbitrary, irrational and capricious. The University Grants Commission has earlier taken a plea that the regulation do not contemplate a candidate having Ph.D. Degree on a higher footing and hence, it is violative of Articles 14 and 16 of the [Constitution of India](#). However, the very same subject matter came to be considered by the Principal Bench of this Court. A Division Bench of this Court headed by F.M.IBRAHIM KALIFULLA,J. (as he then was), upheld the grant of marks, based upon educational qualification in the earlier selection and subsequently, the State Government has issued a Government Order for the purpose of selection for the year 2010 and when the very same notification came to be challenged again before the Principal Bench of this Court, this Court has upheld the grant of marks for having extra educational qualification, though the minimum qualification prescribed is only M.A. with SLET/NET qualification. It was held by this Court that instead of leaving the matter to the Selection Committee, the Government was careful enough to award only 10 marks in the oral interview, so that, no extra advantage can be taken by any candidate. At the same time, the Government's intention is to award marks for the persons who have secured either higher qualification or for considering the teaching experience and hence, the same cannot be challenged as being violative of Article 14 of the [Constitution of India](#).

4. On the contrary, such a classification is irrational and having no nexus to the object sought to be achieved. Ultimately, in a selection process, a candidate, who has been selected, must be a best candidate with all academic distinctions, so

that, the students, who are undergoing the courses in higher educational institutions, will have the benefit of either the long teaching experience or the higher educational qualification. Only because the petitioner is qualified to apply for the said post, he cannot seek to challenge the condition imposed in the prospectus, unless the condition is so arbitrary and violative of Articles 14 and 16 of the [Constitution of India](#).

5. In view of the above said circumstances, there is no case made out to entertain the present Writ Petition and hence, the same stands dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.

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