

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

DATED: 12.07.2013

CORAM

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

**W.P.No.18186 of 2013 and
M.P.Nos. 1 and 2 of 2013**

A.Chandrasekaran

Petitioner

**1. The Secretary,
Higher Education Department,
St. George Fort, Chennai.**

**2. The Member Secretary,
Teachers Training Recruitment Board,
4th Floor, EVK Sambath Maligai,
DPI Compound, College Road,
Chennai 600006.**

Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the corrigendum in Notification No.04/2013 dt. 28.5.2013 issued by the 2nd respondent published on 19.6.2013 in Tamil Daily Newspaper namely Dinadanthi, quash the same and direct the 2nd respondent to consider the petitioner work experience of the Assistant Professors for the purpose of awarding marks for experience as per the original notification.

For Petitioner : Mr.B.Ravi

For Respondents : Mr.R.Sanjay Gandhi, AGP

ORDER

The petitioner passed B.Com. in First Class in the year 1981 and M.Com. in First Class in the year 1983.

2. The petitioner joined as a Lecturer in Sivanthi Adithanar College on 14.07.1986, in self-finance stream. The said college is affiliated with Manonmaniam Sundaranar University.

3. The petitioner obtained M.Phil. Degree in Commerce in the year 1990. He also obtained Ph.D. in the year 2011. The qualification of the petitioner was approved by the Menonmeniam Sundaranar University with effect from 20.07.2006 under Section 15 of the Tamil Nadu Private Colleges Regulation Act.

4. The second respondent issued a notification dated 28.5.2013, calling for applications from the candidates for the post of Assistant Professors in Government Arts and Science Colleges to fill up 1093 vacancies.

5. As per the said notification, the candidate should have passed PG Degree in relevant subject with 55% marks and should also possess either SLET/NET or Ph.D.

6. The Scheme of selection involves two stages:-

6.1 The first stage is that the marks will be awarded to the candidates for the teaching experience and qualification, based on the certificates produced along with the application form as per the criteria. Two marks for each year teaching experience, subject to a maximum of 15 marks is allotted for Teaching experience. As far as the qualification is concerned, maximum of 9 marks is allotted. The candidates with Ph.D. in the concerned subject will be awarded maximum of 9 marks. For possessing M.Phil. with SLET/NET, maximum of 6 marks is allotted. The candidates possessing P.G. Degree with SLET/NET is allotted maximum of 5 marks, i.e. maximum marks for the qualification is 9.

6.2 The second stage is that the marks will be awarded based on the performance given by the candidates at the time of interview. Maximum of 10 marks is allotted for the performance in the interview.

7. At this juncture, it is relevant to extract Clause 13 of the Advertisement calling for applications:-

"13. Scheme of Selection : Scheme of selection involves two stages. Marks will be awarded to all candidates based on the certificates produced along with the Application Forms as per criteria and also the marks awarded during the time of interview, as per G.O.Ms.No.412, Higher Education (F2) Dept, dated 04.12.2009, Govt.Lr.No.20575A/F2/ 2011, dated 27.06.2012 and G.O.(Ms)No.32, Higher Education (F2) Dept Dated 08.03.2013 as follows:

1	For Teaching experience in Universities/Government/aided Colleges/Self financing colleges in the approved post including the Teaching experience (in the relevant subject) of the candidates in Medical/Engineering/Law Colleges. [2 marks for each year subject to a maximum of 15 marks]	15 Marks
2	Qualification	9 Marks
	(a) For Ph.D in concerned subject	
	(b) For M.Phil with SLET/NET	
	(c) For PG & SLET / NET	5 Marks
3	Interview	10 Marks
Total		34 Marks

B. Clause 16(i) of the notification deals with teaching experience and the same is as follows:-

"16(i) The Teaching experience shall be considered for awarding marks for the subject for which they have applied. The work experience while doing some degree (or) PhD will not be considered. In case of any false certificate, TRB will initiate Criminal Action against the individual and the Countersigning Authority. All experience Certificates will be verified by a Competent agency outsourced by TRB."

9. But a Corrigendum was issued by the second respondent on 19.6.2013. As per the Corrigendum, Clause 16(i) was modified as follows:-

AS PER ADVERTISEMENT	CORRIGENDUM
<p>16(i) The Teaching experience shall be considered for Awarding marks for the subject for which they have applied;</p> <p>The work experience while doing some degree (or) Ph.D will not be considered. In case of any false certificate, TRB will initiate Criminal Action against the individual and the Countersigning Authority. All Experience Certificates will be verified by a Competent agency outsourced by TRB.</p>	<p>16(i) The Teaching experience shall be considered for Awarding marks for the subject for which they have applied.</p> <p>The work experience while doing some degree (or) Ph.D will not be considered. The work experience after getting the required qualification for the post of Assistant Professor shall alone be considered for awarding mark (i.e.) P.G. with SLET/NET (or) Ph.D. (or) M.Phil. with SLET/NET. In case of any false certificate, TRB will initiate Criminal Action against the individual and the Countersigning Authority. All Experience Certificates will be verified by a Competent agency outsourced by TRB.</p>

10. As per the Corrigendum, the work experience (teaching experience) after getting prescribed qualification for appointment to the post of Assistant Professor as per the advertisement alone would be considered as Teaching Experience for awarding marks.

11. As stated above, as per the notification, the candidate should possess Ph.D or SLET/NET for the post of Assistant Professor.

12. A candidate may be working in an aided college or self financed colleges for a period of time. He could have obtained Ph.D or qualified in SLET/NET recently and therefore, he could apply for the post of Assistant Professor as per the notification. According to the corrigendum, even if he possess the requisite qualification as per UGC Regulations, either at the time of appointment or subsequently, the service rendered by him prior to his passing Ph.D or qualifying in SLET/NET cannot be counted as teaching experience.

13. The petitioner aggrieved over the criteria for allotment of marks for teaching experience. This writ petition has been filed challenging the aforesaid Corrigendum dated 19.6.2003 as illegal.

14. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

15. According to the learned counsel for the petitioner, the work experience of the petitioner shall be counted from the date of



his appointment in the Sivanthi Adithanar College, Pailaiyarpuram on 14.7.1986 since he possessed F.G. in Commerce which is the requisite qualification for the post of Lecturer at that point of time and thereafter, he obtained M.Phil Degree in Commerce in the year 1990 and Ph.D. in Commerce in the year 2011. When he joined the service, neither SLET/ NET nor Ph.D is required for the post of Assistant Professor. That is why, as per the UGC Regulations, his qualification for the post of Assistant Professor in Commerce, was also approved by Manonmaniam Sundaranar University as per Section 15 of the Tamil Nadu Private Colleges Regulations Act in 2006. Since the College is not getting aid, the College is not interested in getting qualification approval from the University. According to the learned counsel for the petitioner, the entire service from 1986 should be counted, as he was appointed as per UG Regulations and the Rules as stipulated by the Government/University at that time.

16. The learned counsel for the petitioner has given some illustrations. According to him, if a Teaching staff was appointed in an Aided College and the qualification was approved by the concerned university and the Higher Education Department has also approved the same and granted salary, now the second respondent cannot say that the service rendered by such a person for those period could be ignored.

17. Therefore, according to the learned counsel for the petitioner, the issue is whether the candidate was possessing requisite qualification as per the UGC Regulations and the Rules as stipulated by the Government/University at the relevant point of time when he was appointed or during the course of his appointment. According to him, if a person did not possess requisite qualification as per the UGC Regulations/Rules at the relevant point of time when he was appointed, or subsequently, the service rendered by him shall be ignored. But after some years, he acquired the requisite qualification prescribed by the UGC Regulations/Rules, his Teaching Experience thereafter shall be counted, though he did not acquire the qualification of either Ph.D or SLET/NET that is prescribed for making application now to the post of Assistant Professor. The teaching experience cannot be tested based on the requisite qualification prescribed by the UGC Regulations for the present, for making application. I am in full agreement with the submission made by the learned counsel for the petitioner.

18. Realising the mistake, the 2nd respondent themselves has withdrawn the Corrigendum dated 19.06.2013 in the Corrigendum II dated 09.07.2013. Clause 1 and 2 of the Corrigendum II dated 09.07.2013 are extracted here under :-

"1. Corrigendum issued on 19.06.2013 to the advertisement No.04/2013 published towards direct

recruitment of Assistant Professors in Government Arts and Science Colleges is hereby withdrawn.

2. Work experience gained after obtaining minimum eligible qualification plus NET/SLET shall alone be considered for awarding weightage marks. Further work experience obtained during full time Ph.D or any degree, diploma etc shall not be considered.

19. At the time of hearing, the learned Additional Government Pleader appearing for the Teachers Recruitment Board, has submitted that the TRB has decided to withdraw Clause 2 of the Corrigendum dated 09.07.2013. The effect is that both Corrigendum dated 19.06.2013 and 09.07.2013 regarding the teaching experience have now gone. Hence, clause 16(a) of the original notification dated 28.05.2013 stands as it is. But clause 16(i) does not give any guidelines about the determination of teaching experience. In these circumstances, as held above, by an if a Teacher acquired the qualification in terms of the UGC Regulations/Rules as prescribed by the Government/University, the same shall be the yardstick for determination of the teaching experience.

20. The following are the qualifications for more than 25 years experience:

S.No	Date	Qualification Prescribed by UGC for appointment of Lecturers in College/Universities
1	Before 1991	P.G with 50% minimum marks
2	19.09.1991	P.G with 55% minimum marks with Pass NET/SLET
3	1993	P.G with 55% minimum marks with NET/SLET. Exemption for those who completed M.Phil before 31.12.1993 (or) submitted Ph.D., dissertation before 31.12.1993
4	31.07.2002	P.G. With 55% marks with NET/SLET. Exemption for Ph.D dissertation submitted before 31.12.2002 (or) M.Phil completed before 31.12.2002
5	14.06.2006	P.G with 55% minimum marks with NET/SLET. Exemption for M.Phil for taking U.G.Class & Ph.D for taking P.G.Class

S.No.	Date	Qualification Prescribed by UGC for appointment of Lecturers in College/Universities
6	30.06.2010	P.G with 55% minimum marks with NET/SLET Exemption only for Ph.D. holders

21. The Teachers Recruitment Board is directed to clarify to the candidates by way of notification in the newspapers that during relevant period, the qualification mentioned above, at the relevant point of time can be considered for awarding marks for teaching experience.

22. The writ petition is allowed to the extent indicated above. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

GR/bvki

To

- The Secretary, Higher Education Department, St. George Fort, Chennai.
- The Member Secretary, Teachers Training Recruitment Board, 4th Floor, BVK Sambath Maligai, DPI Compound, College Road, Chennai 600006.

+1 cc to Mr. R. Subramanian, Advocate sr.35520/13

+1 cc to the government pleader highcourt, madras

sr.35651

na 15/07/2013

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