

A.DHARMARAJ

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v.

THE CHIEF EDUCATIONAL OFFICER, PUDUKKOTTAI & ORS.

(Civil Appeal No. 1301 of 2022)

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FEBRUARY 18, 2022

[M. R. SHAH AND B. V. NAGARATHNA JJ.]

Service Law – Promotion – Appellant was granted permission to pursue B.A. (English) under distance education from January 2012 to December 2014 – While pursuing B.A. (English), Appellant was granted permission to pursue M.A. (Tamil) a two year distance education course between Academic Years 2013-2015 – Appellant successfully completed B.A. (English) in Dec 2014 and M.A. (Tamil) in 2015 – Appellant was promoted to the post of B.T. Assistant (English) on 06.08.2016 – Respondent No.5 challenged the promotion of appellant & others – Ground of challenge was that by obtaining two degrees simultaneously, the appellant became ineligible for promotion – Rule 14 was pressed into service which provides that teachers who obtained B.A./B.Sc and B.Ed., during the same academic year were not eligible for recommendations – Single Judge of High Court allowed the writ petition & set aside the promotion of appellant – Division Bench upheld the order of Single Judge – Held: It cannot be said that appellant obtained the degree of B.A. (English) and M.A. (Tamil) during the same academic year – Also, degree of M.A. (Tamil) cannot be equated with B.A./B.Sc./B.Ed – Therefore Rule 14 not applicable to facts of the case on hand stricto sensu – Assuming that the subsequent degree obtained by appellant namely M.A. (Tamil) is ignored, in that case also, considering his degree in B.A. (English) the appellant could have been promoted to the post of B.T. Assistant (English) – Degree of B.A. (English) was sufficient as per the eligibility criteria for promotion to the post of B.T. Assistant (English) – Order of promotion of appellant to the post of B.T. Assistant (English) accordingly restored.

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A **Allowing the appeal, the Court**

HELD:1. The promotion of appellant to the post of B.T. Assistant (English) was set aside by the High Court on the ground that the appellant obtained two degrees namely B.A. (English) and M.A. (Tamil) simultaneously and therefore as per Rule 14 he was ineligible for promotion. However, considering Rule 14, it can be seen that the bar was against teachers who have obtained B.A./B.Sc./B.Ed degree simultaneously during the same academic year. In the present case it cannot be said that the appellant obtained the degree of B.A. (English) and M.A. (Tamil) during the same academic year. The appellant pursued his B.A. (English) during January, 2012 to December, 2014. He pursued his M.A. (Tamil) which was a two years distance education course between the academic years 2013-2014 to 2014-2015. Therefore, as such Rule 14 is not applicable to the facts of the case on hand *stricto sensu*. The degree of M.A. (Tamil) cannot be equated with B.A./B.Sc./ B.Ed. Assuming that the subsequent degree obtained by the appellant namely M.A. (Tamil) is ignored, in that case also, considering his degree in B.A. (English) he could have been promoted to the post of B.T. Assistant (English). Both the degrees secured by the appellant cannot be ignored. The degree of B.A. (English) was sufficient as per the eligibility criteria for promotion to the post of B.T. Assistant (English). Under the circumstances both, the Single Judge as well as the Division Bench of the High Court materially erred and ignored the aforesaid aspect in quashing the promotion of the appellant to the post of B.T. Assistant (English). [Paras 5, 5.1 and 6][1128-D-H; 1129-A]

F CIVIL APPELLATE JURISDICTION: Civil Appeal No.1301 of 2022.

From the Judgment and Order dated 26.09.2019 of the High Court of Madras, Madurai Bench in W.A. (MD) No. 834 of 2018.

G P. S. Sridharraj, Ravinder Kumar Yadav, Advs. for the Appellant.

C. Solomon, Ms. Nayan Maggo, S. Nagarajan, Advs. for the Respondents.

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The Judgment of the Court was delivered by

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M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned Judgment and Order dated 26.09.2019 passed by the Division Bench of the High Court of Judicature at Madras at Madurai in Writ Appeal (MD) No.834 of 2018 by which the Division Bench of the High Court had dismissed the said appeal preferred by the appellant herein and has confirmed the judgment and order passed by the learned Single Judge quashing and setting aside the promotion of the appellant to the post of B.T. Assistant (English), the original appellant before the High Court has preferred the present appeal.

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2. The appellant herein was promoted to the post of B.T. Assistant (English) vide order of promotion dated 06.08.2016. Prior thereto the appellant was granted the permission to pursue his B.A. (English) under distance education during January, 2012 to December, 2014. He pursued his distance education in B.A. (English) and successfully completed the same in the month of December, 2014. When the appellant was pursuing his education in B.A. (English), the appellant was granted permission to pursue M.A. (Tamil) which was a two year distance education course between the Academic Years 2013-2015. He appeared in the examination for M.A. (Tamil) in May, 2014 and May, 2015 and successfully completed the same. That thereafter the Respondent no.5 herein challenged the promotion of the appellant and others vide Writ Petition No. 15019 of 2016 on the ground that by obtaining two degrees simultaneously the appellant has rendered himself ineligible as the appellant did not fulfil the eligibility criteria. Rule 14 was pressed into service which provided that “the teachers who have obtained B.A./B.Sc and B.Ed., during the same academic year shall not be eligible for recommendations”. The petition was opposed by the appellant and another. It was the case on behalf of the appellant before the learned Single Judge that Rule 14 cannot be applicable to the facts of the case on hand, as the appellant pursued B.A. (English) and M.A. (Tamil) in different academic years. It was submitted that only in a case where B.A./B.Sc/B.Ed. degrees are obtained in the same academic year the same is not permissible. By the impugned judgment and order dated 23.03.2018, the learned Single Judge allowed the said writ petition and set aside the promotion of the appellant to the post of B.T. Assistant (English).

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A 2.1 The appellant preferred a writ appeal before the Division
Bench of the High Court. By the impugned Judgment and Order, the
High Court has dismissed the said appeal and has not interfered with
the impugned judgment and order passed by the learned Single Judge,
setting aside the promotion of the appellant to the post of B.T. Assistant
(English).

B 3. Though served nobody has appeared on behalf of the contesting
respondents more particularly original writ petitioners.

C 4. We have heard Shri P.S. Sridharraj, learned counsel appearing
on behalf of the appellant and Shri C. Solomon, learned counsel appearing
on behalf of the respondent – State Authorities.

D 5. Having heard the learned counsel appearing on behalf of the
respective parties and on perusal of the judgment and order passed by
the learned Single Judge as well as the Division Bench, it appears that
the promotion of the appellant to the post of B.T. Assistant (English) has
been set aside by the High Court on the ground that the appellant obtained
two degrees namely B.A. (English) and M.A. (Tamil) simultaneously
and therefore as per Rule 14 he was ineligible for promotion. However,
considering Rule 14, it can be seen that the bar was against teachers
who have obtained B.A./B.Sc./B.Ed degree simultaneously during the
same academic year. In the present case it cannot be said that the
appellant obtained the degree of B.A. (English) and M.A. (Tamil) during
the same academic year. The appellant pursued his B.A. (English) during
January, 2012 to December, 2014. He pursued his M.A. (Tamil) which
was a two years distance education course between the academic years
2013-2014 to 2014-2015. Therefore, as such Rule 14 is not applicable to
the facts of the case on hand *stricto sensu*. The degree of M.A. (Tamil)
cannot be equated with B.A./B.Sc./B.Ed.

G 5.1 Assuming that the subsequent degree obtained by the appellant
namely M.A. (Tamil) is ignored, in that case also, considering his degree
in B.A. (English) he could have been promoted to the post of B.T.
Assistant (English). That both the degrees secured by the appellant cannot
be ignored. It is not in dispute that the degree of B.A. (English) was
sufficient as per the eligibility criteria for promotion to the post of B.T.
Assistant (English).

H 6. Under the circumstances both, the learned Single Judge as
well as the Division Bench of the High Court have materially erred and

ignored the aforesaid aspect in quashing the promotion of the appellant A
to the post of B.T. Assistant (English).

7. In view of the above and for the reasons stated above the
present appeal succeeds. The impugned judgment and order passed by
the Division Bench of the High Court in Writ Appeal (MD) No.834 of
2018 and also the judgment and order passed by the learned Single Judge B
in Writ Petition No. 15019 of 2016 are hereby quashed and set aside.
Consequently, the writ petition before the learned Single Judge stands
dismissed. The order of promotion promoting the appellant to the post of
B.T. Assistant (English) dated 06.08.2016 stands restored.

Present appeal is allowed accordingly. However, there is no order C
as to costs.

Bibhuti Bhushan Bose
(Assisted by : Neha Sharma, LCRA)

Appeal allowed.