

W.P. No. 970 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 18.04.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 970 of 2023

and

W.M.P. Nos. 950 to 952 of 2023

S.Amirtha Varshini

... Petitioner

-vs-

1.Tamil Nadu Public Service Commission,
Represented by its Secretary,
7PJ+3QH, Park Town,
Tamil Nadu Public Service Commission Rd,
V.O.C. Nagar,
Chennai, Tamil Nadu 600 003.

2.The Principal Secretary to Government,
Higher Education Department,
Chairman, State Council for Higher Education,
Lady Wellington College Campus,
Kamaraj Salai,
Chennai – 600 005.

4.State of Tamil Nadu,
Represented by its Secretary
Department of Social Welfare and
Women Empowerment,
Fort St. George,
Chennai – 600 009.

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus calling for the records of the First Respondent Commission dated 03.01.2023 so far as rejecting the online application of the petitioner to the post of Assistant Director in Tamil Nadu General Service vide Notification 15 of 2022 dated 18.07.2022 and quash the same and consequently direct the respondents to permit the petitioner to attend interview and select and appoint the petitioner if she comes within the zone of consideration after the oral interview by accepting her qualification as the same Post Graduation in Rehabilitation Science under the provisions of the Rehabilitation Council of India Act, 1992 or in the alternative as equivalent to the P.G. Degree in Rehabilitation Science as per the decision of the Second Respondent.

For Petitioner : Mrs.Dakshayini Reddy, Senior Counsel
for Ms. Suneetha

For Respondents : Mrs. G.Hema (for R1)

: Mrs. R.Anitha
Special Government Pleader (for R2 & R3)

ORDER

Heard Mrs. Dakshayini Reddy, Learned Counsel for the Petitioner, Mrs. G.Hema, Learned Counsel for the First Respondent and Mrs. R.Anitha, Learned Special Government Pleader appearing for the Second and Third



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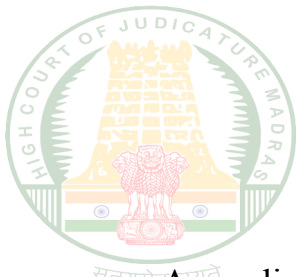
Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had applied for the post of Assistant Director (Women Candidate only) in furtherance to the Notification No. 15/2022 dated 18.07.2022 published by the First Respondent. The following educational qualification has been prescribed for that post in para 5 of the said notification:-

Name of the Post	Prescribed Educational Qualification
Assistant Director (Women Candidate only)	A Post Graduate Degree in Home Science (or) Psychology (or) Sociology (or) Child Development or Food and Nutrition (or) Social Work (or) Rehabilitation Science

In support of her claim for possessing the said educational qualification, the Petitioner had uploaded the following documents in her online application for onscreen certificate verification as per the particulars shown below:-

Candidate claim in online application	Certificate Uploaded
U.G. Degree Bachelor of Audiology and Speech Language Pathology (B.A.S.L.P)	Bachelor of Audiology and Speech Language Pathology (B.A.S.L.P)
P.G. Degree PG Degree in Rehabilitation Science	Master of Science in Speech – Language Pathology from University of Mysore



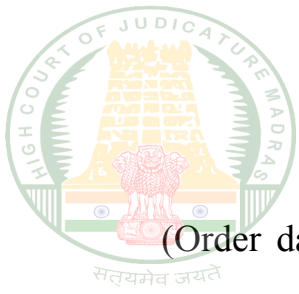
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According to the First Respondent, on verifying the said certificates of the Petitioner, it was found that Post Graduate Degree of Master of Science in Speech - Language Pathology possessed by the Petitioner does not satisfy that prescribed educational qualification. In that backdrop, the First Respondent by Proceedings dated 03.01.2023 rejected her online application for the said post which is impeached in this Writ Petition.

3. Learned Senior Counsel appearing on behalf of the Petitioner asserts that Audiology and Speech Language Pathology are an integral part of Rehabilitation Science, which are governed by the provisions of the Rehabilitation Council of India of Act, 1992, and that the Petitioner has acquired the requisite qualification from an institute recognized by the Rehabilitation Council of India, which cannot be ignored by the First Respondent.

4. At this juncture, it would be useful to recapitulate the principles relating to the determination of equivalence of prescribed qualifications for any post under the State with any other given qualification, as highlighted by the Hon'ble Supreme Court of India in *Unnikrishnan CV -vs- Union of India*



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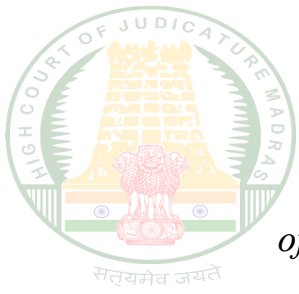
(Order dated 28.03.2023 in Civil Appeal No. 7188 of 2013), which reads as

WEB follows:-

“5. It is trite law that courts would not prescribe the qualification and/or declare the equivalency of a course. Until and unless rule itself prescribes the equivalency namely, different courses being treated alike, the courts would not supplement its views or substitute its views to that of expert bodies.

*6. In **Guru Nanak Dev University -vs- Sanjay Kumar Katwal** [(2009) 1 SCC 610] this Court has reiterated that equivalence is a technical academic matter. It cannot be implied or assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order or resolution, duly published.*

*7. In **Zahoor Ahmad Rather -vs- Sheikh Imtiyaz Ahmad** [(2019) 2 SCC 404], it was held that the State, as an employer, is entitled to prescribe qualifications as a condition*



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of eligibility, after taking into consideration the nature of the
job, the aptitude required for efficient discharge of duties,
functionality of various qualifications, course content leading
up to the acquisition of various qualifications, etc., Judicial
review can neither expand the ambit of the prescribed
qualifications nor decide the equivalence of the prescribed
qualifications with any other given qualification. Equivalence
of qualification is a matter for the State, as recruiting
authority, to determine. ”

(emphasis supplied)

This would necessarily mean that it would not be permissible for the Court to enter into the realm of ascertaining the equivalence of prescribed qualification for any post in public service.

5. It is further informed that the Government of Tamil Nadu has created a mechanism for the said purpose in G.O. Ms. No. 93, Higher Education (K2) Department, dated 30.05.2019 by constituting the Equivalence Committee under the Chairmanship of the Secretary of Government, Higher Education Department and has also prescribed the manner in which such exercise would



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have to be conducted. It has been brought to notice that the Government of

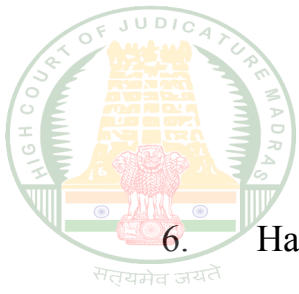
WEB COPY Tamil Nadu has issued G.O. Ms. No. 111, Higher Education (K1) Department

dated 17.04.2023, stating as follows:-

“2. The Government, after careful consideration, approve the following resolutions passed in the 19th Equivalence Committee meeting held on 11.04.2023 under the Chairmanship of Principal Secretary to Government, Higher Education Department and direct that the following Degrees offered by the various Universities / Educational Institutions be not equivalent to the Degrees mentioned therein:-

Item No.	Subjects	Equivalence Committee Recommendations
26.	<i>Public Services – Educational Qualification – Consideration of M.Sc., Speech – Language Pathology awarded by University of Mysore as to whether equivalent to M.Sc., Rehabilitation Science for the post of Assistant Director in Tamil Nadu General Services</i>	<i>Not equivalent</i>

3. The degrees so placed in the Equivalence Committee are however considered as basic degree / post graduate degree, as the case may be, as per the University Grants Commission norms.”



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6. Having due regard to the aforesaid incontrovertible legal position

coupled with the Governmental Orders referred supra, which put at rest the controversy involved, the First Respondent cannot be faulted in refusing to accept the claim made by the Petitioner, even though she had been permitted to take part in the oral interview held on 19.01.2023 pursuant to the interim order dated 12.01.2023 in W.M.P. No. 951 of 2023 passed by the Court with the following clarification:-

“11. However, it is made clear that the Petitioner shall not claim any equity in case she fails to convince this Court in the main Writ Petition, after the counter is filed by the Respondent Commission.”

Viewed from that perspective, there does not appear to be any infirmity in the decision-making process followed by the First Respondent warranting interference by this Court in the exercise of discretionary powers of judicial review under Article 226 of the Constitution.



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In fine, the Writ Petition, which is devoid of merits, is dismissed.

WEB Consequently, the connected Miscellaneous Petitions are closed. No costs.

18.04.2023

sgl

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 24.08.2023.

To

1. The Secretary,
Tamil Nadu Public Service Commission,
7PJ+3QH, Park Town,
Tamil Nadu Public Service Commission Rd,
V.O.C. Nagar, Chennai, Tamil Nadu 600 003.
2. The Principal Secretary to Government,
Higher Education Department,
Chairman, State Council for Higher Education,
Lady Wellington College Campus,
Kamaraj Salai, Chennai – 600 005.
4. The Secretary,
State of Tamil Nadu,
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