

**Central Administrative Tribunal
Madras Bench**

OAs/310/0824, 823, 892, 831, 832, 838, 839, 840, 700, 701 & 702/2015

Dated 8th of January Two Thousand Sixteen

P R E S E N T

Hon'ble Mr.K.Elango, Member(J)

&

Hon'ble Mr.R.Ramanujam, Member(A)

- | | |
|--------------------|------------------------------|
| 1. N.Ramkumar | |
| 2. G.Vimalraj | .. Applicants in OA 824/2015 |
| 3. K.Gunasekaran | |
| 4. N.Bhanuchander | |
| 5. S.Sivakumar | .. Applicants in OA 823/2015 |
| 6. R.Saraswathi | |
| 7. M.Rajeshwari | .. Applicants in OA 892/2015 |
| 8. K.Madhanraj | .. Applicant in OA 831/2015 |
| 9. A.Thilak Kumar | .. Applicant in OA 832/2015 |
| 10. Anandharaj | .. Applicant in OA 838/2015 |
| 11. Dinesh | .. Applicant in OA 839/2015 |
| 12. R.Selvamurugan | .. Applicant in OA 840/2015 |
| 13. Aravindhraj | .. Applicant in OA 700/2015 |
| 14. E.Ragu | .. Applicant in OA 701/2015 |
| 15. G.Sivaguru | .. Applicant in OA 702/2015 |

**By Advocate M/s.V.Ajayakumar, M/s.R.Malaichamy,
M/s.M.Gnanasekar**

Vs.

1. Union of India, rep by the
Government of Puducherry through the
Commandant, Indian Reserved Battalion Police
Department, Puducherry.
2. Superintendent of Police,
Headquarters, Police Department,
Puducherry. .. Respondents in all the OAs

By Advocate Mr.R.Syed Mustafa

ORDER
(Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

The OAs listed above are decided by this common order as the issue involved as well as the relief sought by the applicants are the same in all the OAs.

2. The applicants are candidates who applied in response to the notification dated 17.10.2014 issued by the Government of Puducherry for filling up 211 vacancies of Police Constables (IRBn). The Educational Qualification prescribed therein as an eligibility condition is 'a pass in 10+2 or its equivalent'. The applicants hold a 3 years Diploma Course Certificate after passing the 10th class. The candidature of the applicants has been rejected by the respondents on the ground that a 3 year Diploma is not equivalent to +2. Aggrieved by such rejection, the applicants are before us contending that the Diploma possessed by them is equivalent to +2 level and they are eligible to compete in the selection process and be appointed to the said post if they are successful. They accordingly seek a direction to the respondents to consider their candidature and appoint them based on their merit.

3. The relief sought by the applicants is resisted by the respondents on the ground that the 3 year Diploma course is not recognised by the Education Department, Puducherry as equivalent to

10+2. It is submitted that a large number of applications had been received from candidates possessing the 10+3 (Diploma), 10+2(ITI) and Open School System in response to the notification for employment. In this regard a letter was sent to the Director, Department of Education, Puducherry on 08.12.2014 seeking a clarification. The Joint Director, Directorate of School Education, Puducherry clarified the issue on 19.12.2014 (Annexure R-1) as follows:-

"As per G.O.No.242 dated 18.12.2012 of the Directorate of Higher Education, Government of Tamil Nadu, passing of three years Diploma Course (or) Two year ITI course after Passing of 10th Standard and subsequent passing of Under Graduate Degree is considered to be equivalent to 10+2+3.

Hence it is clarified that the students who after 10th class studied only three year Diploma Course or after 10th standard who studied only two years ITI course is not equivalent to 12th standard (10+2). No G.Os are available about Open School Intermediate (Andhra Pradesh) at this Directorate. The clarification may be obtained from the Directorate of School Education, Chennai."

On the basis of the aforesaid 'clarification' it is contended that the OAs are devoid of merit and fit to be dismissed.

4. Heard the learned counsels Shri.M.Gnanasekar and Shri.V.Ajayakumar on behalf of the applicants and Shri.R.Syed Mustafa, Government Pleader for Puducherry on behalf of the respondents and

perused the pleadings and materials produced by the rival parties. The only issue that requires to be resolved in this case is whether the 3 year Diploma Course after passing the 10th standard could be considered equivalent to the educational qualification prescribed for the post, namely, 10+2.

5. Learned counsel for the applicants drew our attention to Government of Tamil Nadu Higher Education (B1) Department G.O.Rt.No.242 dated 18.12.2012. In this order, reference is made to the request of Secretary, Tamil Nadu Public Service Commission (TNPSC) to consider the equivalence of qualification of persons who studied for a Degree in Engineering after 10th and 3 years Diploma on par with persons who studied for an Engineering Degree after +2. The GO also refers to the request of Secretary, TNPSC to issue order on the resolutions passed by the Equivalence Committee on 3.12.2012 which *inter alia* relate to persons who studied 10+3 (Diploma) before obtaining a Degree from Open University/regular colleges. Accepting the recommendations of the Equivalence Committee, the Government of Tamil Nadu has, in this G.O. approved and directed that Graduation through Distance Education of a Open University and that obtained through regular studies in Colleges in the following manner shall be considered equivalent for the purpose of employment and promotion in State services:-

1. 10+3 (Diploma) + 3 year (Degree)
2. 11 (Old SSLC) + 2 years (Teachers Diploma) + 3 years (Degree)
3. 10+2 (ITI) + 3 years (Degree)
4. 10+3 (Diploma) + 2 years (Degree) – Lateral entry

In all the aforesaid cases, the different routes finally culminate in Graduation. An under graduate Degree being the common factor in all these categories, equivalence stood established among the different qualifications that precede the Degree. On this basis it is argued on behalf of the applicants that a 10+3 (Diploma) would be equivalent to a 10+2 as this is precisely what the aforesaid GO was all about. Learned Counsel Mr.M.Gnanasekar further drew out attention to the Information Brochure of the Joint Entrance Examination (Advanced) 2015 issued by the Indian Institute of Technology (IIT), Bombay which contains the following provisions regarding examinations considered as equivalent to class 12:-

“10. Examinations considered as equivalent to class XII:

. The final examination of the 10+2 system conducted by a Central or State Board recognised by the Association of Indian Universities.

. Intermediate or two-year pre-University examination conducted by a Board or University recognised by the Association of Indian Universities.

. Final Examination of the two-year course of the

Joint Services Wing of the National Defence Academy.

. Senior Secondary School Examination conducted by the National Institute of Open Schooling with a minimum of five subjects.

. Any Public School, Board or University examination in India or in a foreign country recognised as equivalent to the 10+2 system by the Association of Indian Universities (AIU).

. H.S.C. Vocational examination.

. A Diploma recognised by the All India Council for Technical Education or State Board of Technical Education of at least 3 years duration.

. General Certificate Education (GCE) examination (London, Cambridge or Sri Lanka) at the Advanced (A) level.

. High School Certificate Examination of the Cambridge University or International Baccalaureate Diploma of the International Baccalaureate Office, Geneva."

Learned counsel also relied on the following observations of the Hon'ble High Court of Judicature at Madras in WP No.10181/2014 in their order dated 25.6.2014:-

"7. So far as the question as to whether Diploma in Electrical and Electronics Engineering which is of three years duration is equivalent to Higher Secondary Courses has already been decided based on G.O.Ms.No.242, Higher Education Department, dated 18.12.2012 wherein the Government has declared that such Diploma Course shall be treated as equivalent to Higher Secondary Course for all purposes including public employment. That is what has been

reiterated in para 4 and 5 of the order as extracted above. Therefore, the said question as to whether the diploma obtained by the petitioner is equivalent to Higher Secondary Course or not cannot be reopened."

The same matter had been considered in the Division Bench in WP No.370/2015 and the Hon'ble High Court *inter alia* made the following comment in their Judgment dated 17.3.2015:-

9. The facts in the case on hand are different. There is no controversy on the issue that the said G.O. dated 18.12.2012 clearly provides that three years diploma course is equivalent to the plus 2 Higher Secondary Course. Thus, obtaining graduation degree after completion of SSLC plus three years diploma course from the open University is a valid graduation degree for the purpose of appointment."

Our attention was also drawn to order dated 01.7.2015 in WP Nos.19258 to 19260/2015 in the case of applicants S/Shri Dinesh, R.Selvamurugan and Anandharaj wherein the Hon'ble High Court while dismissing the WP had concluded as follows:-

"8. Therefore, the writ petitions are dismissed. However, the Tribunal is requested to take up the original applications before the conduct of the written tests, so that the case of the petitioners can be considered on par with the other persons, who are before the Tribunal and in whose favour interim orders have already been passed. No costs. Connected miscellaneous petitions are dismissed."

6. Learned counsel Shri V.Ajayakumar further submitted that the

qualification prescribed for the post as per the Recruitment Rules is only a pass in SSLC. The requirement of 10+2 mentioned in the notification calling for application was, therefore, not in accordance with the Recruitment Rules, as what was required was only a pass in SSLC which according to him is the 10th class.

7. Learned counsel for the respondents however, argued vehemently and at length to plead that neither this Tribunal nor the Government of Puducherry is competent to declare the equivalence of different qualifications for the purpose of eligibility for the said post. According to him, the question of equivalence could only be gone into by an expert committee. However, the Government of Puducherry has not constituted any such expert committee but decided to adopt the equivalence as declared by the Government of Tamil Nadu. As the equivalence approved by the Government of Tamil Nadu on the basis of the recommendations of the Equivalence Committee of the TNPSC was regarding Under Graduate Degree obtained through distance education of an Open University or regular colleges after following different routes; the relevant GO could only be relied upon in cases where the requirement of educational qualification is an Under Graduate Degree. However, the educational qualification for the post advertised by the Government of Puducherry is 10+2 and not Graduation. As there was no clarity whether

the equivalence of the different educational qualifications obtained by students before undergoing the Degree Course could be derived from the said GO, a special reference was made to the Director, Department of Education, Puducherry who clarified that a 3 years Diploma Course or a 2 Years ITI Course done after 10th class was not equivalent to the 12th standard (10+2). In the said clarification, it is also mentioned that GO No.242 dated 18.12.2012 of the Directorate of Higher Education, Government of Tamil Nadu only showed that passing of 3 years Diploma Course or 2 years ITI Course after the 10th standard and subsequently passing of the Under Graduate Degree was considered to be equivalent to 10+2+3. In the light of the aforesaid clarification it is not possible for the respondents to accept the 3 years Diploma Course done after 10th class as equivalent to the +2 Course.

8. Learned counsel for the respondents also submitted that a large number of applications of candidates similarly placed have been rejected on the basis of this clarification and they have not challenged the decision of the respondents. In view of this any relief granted to the applicants alone who are small in number compared to the number of similarly placed cases rejected would violate the principles of equality/equal opportunities in public services guaranteed by the Constitution.

9. We have carefully considered the issue in the light of the submissions made by the learned counsel and perused the records. It is not in dispute that the notification prescribes an educational qualification of 10+2 or equivalent as an eligibility condition. This means that all those who possess the 'equivalent' of 10+2 would be as much eligible as those with 10+2 qualification to compete on an equal basis. The Government of Puduchery do not seem to have considered the issue of equivalence through experts or otherwise except through an attempt to interpret the relevant G.O. of the Government of Tamil Nadu. From the reply statement of the respondents as well as the submissions made by the learned counsel for the respondents during arguments, it is clear that the respondents have no objection to accepting the equivalence of educational qualification as contained in GO No.242 dated 18.12.2012/Directorate of Higher Education, Government of Tamil Nadu. However, it is asserted that the said G.O. is only about the equivalence of 'Degree' and does not establish the equivalence between 10+3 (Diploma) and 10+2.

10. We are unable to agree with the learned counsel for the respondents that the equivalence of different pre-degree stages could not be derived from the said GO and that it is only about the equivalence of Under Graduate Degrees obtained after going through different pre-

Degree stages. A careful reading of the said GO makes it clear that the entire exercise before the Equivalence Committee was to consider the equivalence among different pre-degree stages passed through by persons who had passed a 3 years Degree. Out of the four categories of persons referred to therein, only one category is of those who passed the 2 years Degree (lateral entry). The remaining three categories are persons who possess a 3 years Degree. There was no need to establish the equivalence of one three year under graduate Degree with another three year under graduate degree unless the equivalence of the pre-degree stages that led to the 3 year under graduate Degree was in doubt. Therefore, it is to be held that in accepting the recommendations of Equivalence Committee of the TNPSC, the Government of Tamil Nadu had by implication accepted the different pre-degree courses as equivalent to one another for the purpose of entering the three year under graduate Degree.

11. We do not agree with the 'clarification' alleged to have been issued by the Director, School Education, Government of Tamil Nadu (Annexure R2) that the GO dated 18.12.2012 did not establish the equivalence of 10+3 (Diploma) with 12th Standard. First of all, there is no reference to this letter in Annexure I 'clarification' by the Government of Puducherry dated 19.12.2014. Further it is not clear whether the

Director of School Education a subordinate authority of the Government was competent to clarify a Government Order in this manner in terms of the Transaction of Business Rules of the Government of Tamil Nadu. In any case, the 'clarification' which proceeds on the following lines does not seem to rule out the equivalence between 10+3 (Diploma) and 10+2 except to state that the GO is silent on whether 10+3 is equivalent to 12th Standard or not, when not followed by a Degree:-

"Selvi S.Aruna Diviser has studied and passed 3 years Technical Education in Tamil Nadu, after studied and passed 10th Standard in Jeyarani Higher Secondary School, Puducherry. The Joint Director, School Education, Puducherry has requested the Tamil Nadu Government in his letter first cited in reference, whether her certificate of 3 years Technical Course (Diploma) can be considered as equivalent to 12th Standard.

It is mentioned in the Government Order cited in the reference that only those who passed 3 years diploma, after passed 10th Standard and subsequently passed a degree through Open University/Distance Education/Colleges (10+3+3) only can be considered as equivalent to 12th Standard.

But, it is informed that as the person said above has only passed 3 year Polytechnic Education, after passing 10th Standard, no provision has been made in the above said Government Order cited in the reference to consider the qualification as equivalent to 12th Standard."

It is not clear how it could be argued on merits that 10+3 becomes

equivalent to 12th Standard only when a subsequent Under Graduate Degree is obtained but not when considered in isolation. In any case the Government of Puducherry was expected to independently apply their mind and arrive at a conclusion on the issue and not merely go by a letter issued by a subordinate authority of Government of Tamil Nadu, the contents of which do not reveal an objective and rational application of mind to the issue in hand.

12. The question of equivalence of any qualification has two dimensions. One is where a minimum qualification is prescribed for admission to a specialised programme or further studies in the regular course or a specialised job in the Government where the depth of knowledge of a candidate in specific subjects as revealed by the syllabus/course content of the basic qualification would be the most important consideration. Here, while deciding the question of equivalence, besides the standards and rigours of the Board/Institution issuing the certificate relating to the qualification alleged to be equivalent, the width and depth of the course content would have to be carefully considered. For without a certain minimum depth of knowledge of the specified subjects, it may not be possible for the candidate to cope with the demands of the higher study or a technical job he is required to perform on a post in the Government. On the other hand

the question of equivalence may also arise in a general manner where recruitment to a public service is made on the basis of a minimum qualification 'in any subject' such as a Degree in Arts, Science etc. regardless of specialisation or even SSLC or 10+2 where a person may study both compulsory and optional subjects as a part of the curriculum. In such cases the equivalence to be established would be in terms of the 'level' of the educational qualification and not the course content. In such a situation, even without reference to the Government of Tamil Nadu GO, the 'level equivalence' between 10+2 and 10+3 (Diploma) would stand established in the light of the alternate qualifications considered equivalent to class XII as published in the Information Brochure of IIT, Bombay for the JEE(2015).

13. For a post such as a Police Constable where the prescribed qualification mentioned in the Recruitment Rules is SSLC, it is difficult to agree that the possession of a three year Diploma after 10th class would in any way make a candidate deficient in terms of the minimum knowledge or skills required to discharge the functions of the post. There is no such submission in the respondents' reply statement either directly or by implication that the knowledge of various subjects taught at the +2 level is a must for performing the functions of a Police Constable and knowledge in a different field of study though of an

equivalent or higher level would leave them deficient in terms of the knowledge or skills required for a Police Constable. Even at the +2 level, there are different streams such as Science, Commerce etc. and students qualify in dissimilar subjects. This being the case, it cannot be argued that a person with Science or Commerce background in +2 is well equipped to handle the responsibilities of a Police Constable but not an Engineering Diploma holder. We are, therefore, of the view that it is sufficient to establish equivalence in terms of the 'level' of educational qualification and not the content of the syllabus of the relevant course. In this view of the matter, a three year full time Diploma Course could not in any way be regarded as inferior to a two Year +2 Course, especially in the absence of any finding to the contrary by an Expert Committee constituted by a competent authority. We note that there are no submissions/arguments on behalf of the respondents on merits in this regard.

14. We are not going into the issue of whether the educational qualification prescribed for the post of Police Constable in terms of the Recruitment Rules viz. SSLC is 10th class or 12th as it would be necessary to consider this only if the relief sought on the basis of 'equivalence' of +2 failed. In any case, we do not have adequate material before us in the pleadings to come to a conclusion in this regard.

15. We are not persuaded by the submission on behalf of the respondents that a large number of applications from Diploma holders has been rejected and any relief to the applicant would violate the principles of equality/equal opportunities in public services. For the Court cannot come to the rescue of those who rule themselves out or meekly surrender without a fight. The rights of those who approach the Courts could not be compromised for the sake of such persons.

16. In view of the above, we hold that the rejection of the candidature of the applicants by the respondents based only on their interpretation of an alleged clarification made by a subordinate authority of the Government of Tamil Nadu of a Tamil Nadu Government GO is arbitrary, illogical, unjust and without a proper and independent application of mind. Neither the alleged 'clarification' in Annexure R-2 nor that at R-1 flows from the Government of Tamil Nadu GO dated 18.12.2012. On the other hand, the observations of the Hon'ble Madras High Court extracted in para-5 of this Order conclusively establish that the equivalence of 10+3 (Diploma) and 10+2 could be derived from the said G.O. The OAs, therefore, succeed and all the applicants who have already been allowed to participate in the selection process provisionally along with a direction to keep their results in a sealed cover are entitled to the relief sought by them.

17. The respondents are accordingly directed to open the sealed covers and consider the applicants for appointment based on their position in the merit list, subject to fulfilment of minimum physical efficiency standards etc.

18. The OAs are allowed in the above terms. No order as to costs.