

**Central Administrative Tribunal
Madras Bench**

**MA/310/00664/2018 & MA/310/00665/2018 (in)(&) OA/310/00258/2016 a/w
OA/310/00038/2016, OA/310/01770/2015, OA/310/01735/2015 &
OA/310/01744/2015**

Dated the 18th day of October Two Thousand Nineteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

OA 258/2016

1. L.Senthamij Selvan
2. R.Saravanakumar .. Applicants

By Advocate **M/s.R.Jaikumar**

Vs.

1. Union of India, rep by its
Director,
Directorate of School Education,
Perunthalaivar Kamarajar Centenary Educational Complex,
100 Feet Road, Anna Nagar,
Puducherry 600 005.
2. Thennagathamizhan.K.
3. Vinothini.M.
4. Maheswary.P.
5. Sudandiram.S.
6. Tharanidaran.V.
7. Elamvazhudhi.S.
8. Ranjitha.K.
9. Devendiran.R.
10. Elavarasan
11. Ranjithkumar
12. Bharathi.S
13. K.Sathishkumar
S/o Kanniyappan,
No.20, Thoppu Street,
Earipakkam, Nathamedu,

Kariyamanickam (Post),
Puducherry 605 106.

14. R.Raja,
S/o R.Rajaram,
No.24, Vazhapattu Street,
Kuruvinatham,
Puducherry 607 402.

15. S.Purushothaman,
S/o Subramanian,
No.398, Pambatti Street,
Muthiraiyapalayam,
Puducherry 605 009.

16. A.Lakshminarayanan,
S/o Ariraman,
212, Iyyanar Koil Street,
Vinayagampet,
Sorapet Post,
Puducherry 605 501.

17. S.Jayalakshmi,
W/o Senthilkumar,
No.7, Mettu Street,
Odiampet, Villianur,
Puducherry.

18. P.Mohan,
S/o Pavadai,
No.1, Pidariyamman Koil Street,
Kurivinatham & Post,
Bahour Commune,
Puducherry 607 402.

19. R.Rajesh,
S/o S.Ramasamy,
No.1, New Nagar,
Abishegapakkam,
Puducherry 605 007. .. Respondents (R13 – 19 are applicants in MAs)

By Advocate **Mr.R.Syed Mustafa, Mr.M.T.Arunan, Ms.S.Meenakshi, Mr.M.Vaikunth**

OA 38/2016

S.Aruna
W/o Kamaraj,
No.22 Amman Koil Street,
Kottucherry, Karaikkal 609 009. .. Applicant

By Advocate **M/s.N.Prasanna**

Vs.

1. Union of India, rep by the Secretary to Government, Education Department, Government of Union Territory of Puducherry, Puducherry.
2. The Director of School Education, Government of Union Territory of Puducherry, Puducherry.
3. Viknesh, A.
4. Balamurugam, B.
5. Vaddi Varaprasad, R
6. Bharathi, S
7. Sujith Jayan Alex, J
8. Vinoth, Y
9. Thennagathamizhan, K
10. Vinothini, M
11. Maheswary, P
12. Ashok Kumar, J
13. Murugalayan, K
14. Kamalacannane, A
15. Vidya, JC
16. Murugan, D
17. Pregash, D
18. Murugaraj, M
19. Arul Prasad, J
20. Sithanandam @ Muthukumaran, D
21. Senthil, R
22. Sudandiran, S
23. Tharanidaran, V
24. Elamvazhudhi, S

By Advocate **Mr.R.Syed Mustafa**,

OA 1770/2015:

1. K. Vijayanandh
2. P. Selvamurugan .. Applicants

By Advocate **M/s.G.Pavendhan**

Vs.

1. Union of India, rep by its

Director,
 Directorate of School Education,
 Perunthalaivar Kamarajar Centenary Educational Complex,
 100 Feet Road, Anna Nagar,
 Puducherry 600 005.

2. Kamalacannane.A.
3. Vidya.JC.
4. Murugan.D. Ex-serviceman
5. Pregash.D. Physically Handicapped Person. .. Respondents

By Advocate **Mr.R.Syed Mustafa, M/s.S.P.Ilangovan**

OA 1735/2015:

Mr.M.Vengadesan,
 S/o P.Muthalu,
 No.42, Mariamman Kovil Street,
 Puducherry 605 111. .. Applicant
 By Advocate **M/s.R.Jaikumar**

Vs.

1. Union of India, rep by its
 Director,
 Directorate of School Education,
 Perunthalaivar Kamarajar Centenary Educational Complex,
 100 Feet Road, Anna Nagar,
 Puducherry 600 005.
2. A.Viknesh
3. Balamurugan
4. Vaddi Varaprasad.R.
5. Bharathi.S
6. Sujith Jayan Alex.J
7. Vinoth.Y
8. Thennagathamizhan.K.
9. Vinothini.M.
10. Maheswary,P.
11. Ashok Kumar.J.
12. Murugaiyan.K.
13. Kamalacannane.A
14. Vidya.JC
15. Murugan.D.
16. Pregash.D.
17. Murugaraj.M.
18. Arul Prasad.J.

19. Sithanandam @ Muthukumaran.D.
 20. Sendhil.R
 21. Sudandiram.S.
 22. Tharanidaran.V.
 23. Elamvazhudhi.S.
 24. Thennagathamizhan.K.
 25. Velavan.R.
 26. Shalini.P.
 27. Mahadevan.A.
 28. Ranjitha.K.
 29. Bharathiraja.M.
 30. Santhiya.P.
 31. Ilavarasi.B.
 32. Murugaraj.M.
 33. Pushparaj.N.
 34. Kowsalya.S.
 35. Nandhini.P.
 36. Vasantharaj.J.
 37. Prabagaran.P.
 38. Sivamathi.G.
 39. Parameswari.S.
 40. John Joseph
 41. Sandirassegarane.K.
 42. Devendirar.R.
 43. Jayabarathi.P.
 44. Sadheesh.A.
 45. Sharan Mohan.S.
 46. Vineetha.MM .. Respondents

By Advocate **Mr.R.Syed Mustafa, Ms.S.Meenakshi, Mr.K.Rajendran**

OA 1744/2015:

S.Aruna
 W/o Kamaraj,
 No.22, Amman Koil Street,
 Kottucherry,
 Karaikal 609 009. .. Applicant
 By Advocate **M/s.N.Prasanna**

Vs.

1. The Union of India, rep by the Secretary to Government, Education Department,

Government of Union Territory of Puducherry,
Puducherry.

2. The Director of School Education,
Government of Union Territory of Puducherry,
Puducherry.
3. Thennagathamizhan, K
4. Maheswary, P
5. Tharanidaran, V
6. Velavan, R
7. Sudandiram, S
8. Shalini, P
9. Vinothini, M
10. Madhavan, A
11. Ranjitha, K
12. Bharathiraja, M
13. Santhiya, P
14. Ilavarasi, B
15. Murugan, M
16. Pushparaj, N
17. Kowsalya, S
18. Nandhini, P
19. Vasantha Raj, J
20. Prabagaran, P
21. Sivamathi, G
22. Parameswari, S
23. John Joseph
24. Sandirassegarane, K
25. Sendhil, R
26. Devendirar, R
27. Ilavarasan, I
28. Jayabharathi, P
29. Sadheesh, A
30. Sharan Mohan, S
31. Vineetha, MM .. Respondents

By Advocate **Mr.R.Syed Mustafa**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The above OAs are filed seeking the following relief:-

OA 258/2016:

“(a) To set aside the select list dated 07.12.2015 selecting the private respondents 2 to 12 as Physical Education Teachers and consequently direct the 1st respondent to conduct selection to the post of Physical Education Teacher from among the persons who have obtained degree in Physical Education from recognized university and consider the applicant for appointment of Physical Education Teacher, and

(b) Pass such further orders as are necessary to meet the ends of justice.

(c) Award costs and thus render justice.”

OA 38/2016:

“(a) Call for the records on the file of the 2nd respondent relating to the impugned notification bearing Ref.No.36518/DSE/Estt.111/C/2014(A) dated 07.12.2015 and quash the same and consequently direct the respondents to re-do the selection for the post of Physical Education Teacher and select the applicant and appoint her in accordance with law;

(b) Award costs;

(c) And pass such further or other orders and thus render justice.”

OA 1770/2015:

“(a) declare that the action of the 1st respondent in not considering their case against the notification dated 31.12.2014 in respect of 30 persons of Physical Education Teacher is illegal and consequently direct the 1st respondent include the name in

the select list dated 07.12.2015 and appoint them as Physical Education Teacher on the basis of such inclusion and

(b) Pass such further orders as are necessary to meet the ends of justice.

(c) Award costs and thus render justice.”

OA 1735/2015:

“(a) Set aside the select list dated 07.12.2015 selecting the private respondents 2 to 45 as Physical Education Teachers and consequently direct the 1st respondent to conduct selection to the post of Physical Education Teacher from among the persons who have obtained degree in Physical Education from recognized university and consider the applicant for appointment of Physical Education Teacher and

(b) Pass such further orders as are necessary to meet the ends of justice.

(c) Award costs and thus render justice.”

OA 1744/2015:

“(a) Call for the records on the file of the 2nd respondent relating to the impugned notification bearing Ref.No.36518/DSE/Estt.111/C/2014(A) dated 07.12.2015 and quash the same and consequently direct the respondents to re-do the selection for the post of Physical Education Teacher and select the applicant and appoint her in accordance with law;

(b) Award costs;

(c) And pass such further or other orders and thus render justice.”

As the issue involved in all these applications is identical and the relief sought for also is similar, these applications have been heard together and are being disposed off by this common order.

2. The applicants in these cases had passed Bachelor of Physical Education (BPE) degree (3 years degree course) from Annamalai University and thereafter they had also passed MPED.

3. The 1st respondent had issued notification for 22 vacancies of Physical Education Teacher on 31.12.14 (Annexure A12). The essential qualification prescribed was a Degree in Physical Education or a Degree of recognized University with Diploma in Physical Education of a recognized institution. The respondents without conducting any interview published a select list on 07.12.15 selecting the private respondents 2 to 12 as Physical Education Teacher on the basis of marks obtained by candidates in BPE and B.Ped. R2 to 12 had only undergone 1 year B.Ped. Course conducted by the Community College, Puducherry which is not recognized by NCTE. The B.Ped. Certificate is not valid for any teacher appointment. The community college had also stopped the said course in 2015. R2 to 8 are included in the select list and R9 to 11 are included in the waiting list. All the above private respondents are not having any approved qualification. So, the appointment of these private respondents are illegal and the select list dated 07.12.15 is liable to be set aside. There was no proper selection procedure undertaken and the private respondents are not qualified to be appointed as Physical Education Teachers.

4. The 1st respondent filed a reply denying the allegations. It was submitted that R1 had notified 22 posts as per erstwhile Recruitment Rules and another notification for 30 posts as per new Recruitment Rules. R1 had not arbitrarily relaxed

qualifications for appointment. The 1st respondent had filled up 22 vacancies as per erstwhile RR and 30 vacancies as per new RR on the basis of date of vacancies. The mode of selection prescribed is given in the notification and the interview was dispensed with. R1 had given the details how the selection list was prepared in the reply.

5. Respondents admitted that BPE Degree is a 3 year course and B.Ped. is a one year degree course. The selection was done on the basis of marks obtained and Employment Exchange seniority etc. Respondent had conducted the selection strictly in accordance with G.O. Ms. No.60 dated 08.6.12.12. It is true that some of the candidates who passed the B.Ped. Degree had also come up in merit. As per the old RR, the following educational qualification was prescribed:-

- (1) A Degree of a recognized University with Diploma in Physical Education of a recognized Institution or
- (2) Degree in Physical Education of a recognized University .

The candidates who had passed B.Ped. From community college was awarded degree by Pondicherry University which is a recognized University under UGC and they were considered for selection as per RR prevailing at that time. So, there is no illegality in the selection to the 22 posts as per Annexure A12 notification.

6. The 1st applicant in OA 528/16 was considered for selection and he got only 60.70% and he comes as 77th and has secured 4th position SC waiting list. The other

applicants were not selected as they did not come up in merit.

7. Respondents 2,5,6,9&10 filed a detailed reply and submitted that they are Graduates who had taken B.Ped. Degree from Puducherry University between the period 2011-2014. The applicants are eligible to apply for the post as per notification issued and they applied for 22 posts. The 1st respondent published the select list of persons for 22 posts and 30 posts notified separately on 07.12.15. Some of the candidates got selected in both the selections. The respondents issued a notification stating that the persons selected under notification for 22 posts will be considered as senior. After the vacation of stay in OA 1735/15 on 01.2.16, the respondents has issued appointment orders on 05.8.16. The applicants have no locus standi as he has applied for the post of Lecturer (Physical Education) in the year 2014. The OAs had become infructuous as the private respondents are already appointed. The community college is part of Puducherry University which is a Central University. The community college is functioning under general, academic and administrative supervision of Pondicherry University and it is recognised by UGC as constituent college of Pondicherry University. So, community college is an integral part of Pondicherry University. Applicants had obtained a degree first and thereafter joined for B.Ped. Course.

8. When the matter came up for hearing, the counsel for the applicant and respondents has no difference of opinion as the dispute were mainly centres around

whether the B.Ped. Course conducted by Pondicherry Community College under Pondicherry University is approved for the post of Teachers by NCTE. The contention of the applicants is that the B.Ped. Degree given by Pondicherry University is of only 1 year duration and NCTE has not recognised the degree and the appointment of the private respondents is illegal and has to be set aside.

9. The counsel for the respondents submitted that as per the RR prevailing, there is no mention of NCTE recognition. But since the degrees are given by Pondicherry University which is a Central University, their degree was also considered. It is submitted that the Pondicherry University has taken up this issue with NCTE. A lot of correspondence has taken place and the government is seriously pursuing the matter considering the plight of persons who took the B.Ped. Degree.

10. When the matter was finally heard on 15.7.19 the counsel appearing for the respondents produced a copy of the amendment brought about to the National Council for Teacher Education (Amendment) Act, 2019 dated 11.1.19 giving retrospective recognition to courses or training in teacher education till the academic year 2017-18. The community college and University of Pondicherry are funded by government and hence the B.Ped. Course also gets retrospective recognition. The statement of objects and reasons for the amendment in 2019 reads as follows:-

“The National Council for Teacher Education Act, 1993 (the Act) was enacted to provide for the establishment of a National Council for Teacher Education with a view to achieving planned and co-ordinated development of the teacher education system throughout the country, the regulation and proper maintenance of norms and standards in

the teacher education system and for matters connected therewith.

2. Section 14 of the Act provides that every institution offering teacher education course has to obtain recognition from the Regional Committee. Section 15 of the Act also requires that where any recognised institution intends to start any new course or training in teacher education, it has to obtain permission from the Regional Committee concerned.

3. However, certain institutions funded by the Central Government, the State Government or the Union territory Administration failed to obtain recognition and permission from the said Council as required by sections 14 and 15 of the Act, though these institutions admitted students for the teacher education and training courses. Subsequently, some of those institutions represented to the said Council for granting retrospective recognition to them or permission for such courses offered by them, as the case may be.

4. In order to ensure that the future of the students who have already undergone the teacher training courses in such institutions is not put to jeopardy, it has been decided as a one-time measure to grant retrospective recognition or permission to such institutions or courses, as the case may be, by suitably amending sections 14 and 15 of the Act.

5. Accordingly, it is decided to introduce a Bill, namely, the National Council for Teacher Education (Amendment) Bill, 2017, which proposes to amend -

(a) section 14 of the Act to grant retrospective recognition to such institutions funded by the Central Government or State Government or the Union territory Administration, and as may be notified by the Central Government, which offered teacher education courses on or after the appointed day till the academic year 2017-18; and

(b) section 15 of the Act to grant retrospective permission to the new course or training in teacher education offered by the institutions, as may be notified by the Central Government, on or after the appointed day till the academic year 2017-2018.

6. The Bill seeks to achieve the above objectives.

We had carefully gone through the pleadings and documents produced by the applicants as well as the respondents. The recruitment as per Annexure A12 notification was conducted as per the old recruitment rules and there is no mention regarding the necessity of NCTE recognition. As per the NCTE Act, recognition is necessary for any degree for teacher appointment. According to the respondents, the private respondents came up in the merit list and they were appointed to the post considering the fact that RR does not insist on NCTE recognition. Further, the B.Ped. certificates were issued by a Central Government established Pondicherry University. There is no allegation of fraud or collusion in this case. There is no contention put forward to show that the contesting private respondents had obtained the appointment in a fraudulent manner. According to the 1st respondent, the persons who were selected as per Annexure A12 notification are already appointed and they are in service from 2018 onwards. The applicants herein had failed to come up in the merit. The various documents produced would go to show that the Pondicherry University and Community College were taking all steps to get recognition of NCTE for avoiding any dispute regarding the recognition of the degrees issued by the university. The parliament had now passed National Council for Teacher Education (Amendment) Act, 2019 giving retrospective recognition of teacher education degrees granted by Central/State government institutions. The statement of objects and reasons stated in introducing the amendment bill clearly shows the controversy

existing throughout the country in these type of cases. Now, the B.Ped. degrees/certificates issued by Puducherry University/a centrally funded university squarely comes within the scope of the amendment. Now the B.Ped. degrees are also retrospectively recognised by the NCTE.

11. In view of the discussions made, we find that there is no scope of interference in the selection list and in the appointment order issued in this case.

12. In the result, OA will stand dismissed. Consequently MAs stand disposed off. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

18.10.2019

/G/

Annexures referred to by the applicants in OA No.310/00258/2016:

Annexure A1: 1st applicant's bachelor degree certificate dated 11.12.2002.

Annexure A2: 1st applicant's master degree certificate dated 14.12.2004.

Annexure A3: 2nd applicant's bachelor degree certificate dated 04.10.06.

Annexure A4: Meritorious sports certificate given to the 2nd applicant dated 01.3.2010.

Annexure A5: Recruitment to the post of Physical Education Teacher-2010 dated 03.3.2010.

Annexure A6: Recruitment Rules dated 24.8.2010.

Annexure A7: Employment Card details of the 2nd applicant dated 07.7.14.

Annexure A8: Caste certificate of the 2nd applicant dated 07.7.14.

Annexure A9: Residence certificate of the 2nd applicant dated 07.7.14.

Annexure A10: Nationality certificate of the 2nd applicant dated 07.7.14.

Annexure A11: Recruitment to the post of Physical Education Teacher-2015(for 30 post) dated 31.12.14.

Annexure A12: Recruitment to the post of Physical Education Teacher-2015(for 22 posts) dated 31.12.14.

Annexure A13: Copy of Annamalai University Prospectus.

Annexure A14: Application submitted by the 1st applicant dated 08.1.15.

Annexure A15: Application submitted by the 2nd applicant dated 29.1.15.

Annexure A16: RTI to the NCTE dated 14.7.15.

Annexure A17: Reply given under the RTI Act from the NCTE dated 21.9.15.

Annexure A18: G.O. regarding written test dated 20.10.15.

Annexure A19: Selection list published by the 1st respondent to the post of Physical Education Teacher dt. 07.12.15.

Annexure A20: Order in OA 1735/15 dt. 23.12.15.

Annexure A21: Order in OA 1735/15 dt. 01.2.2010.

Annexure A22: Information furnished by Teachers Recruitment Board, Chennai-6 dt. 24.6.09.

Annexure A23: NCRT 252nd Meeting Proceedings dt. 13/14.9.13.

Annexure A24: NCRT 257md Meeting Proceedings dt. 20/22.12.13.

Annexure A25: NCRT 269th Meeting Proceedings dt. ½.7.14.

Annexure A26: Reply from the Community College dt. 18.2.15.

Annexure A27: NCRT 283rd Meeting Proceedings dt. 2/3.3.15.

Annexure A28: Reply from the Community College dt. 19.6.15.

Annexure A29: RTI Reply from the respondent No.14 dt. 21.9.15.

Annexure A30: Representation to the School Education Department dt. 02.12.15.

Annexure A31: Birth Certificate of Jaganathan s/o Kowsalya dt. 30.12.15.

Annexure A32: Details of teaching staff in the community college.

Annexure A33: RTI Reply from the 14th respondent dt. 20.1.16.

Annexure A34: RTI Reply from the Community College dt. 28.1.16.

Annexure A35: RTI Reply from the Community College dt. 16.2.16.

Annexure A36: Reply from the Information Officer regarding Sivamathy dt. 17.2.16.

Annexure A37: Norms & Standards for BPED Degree.

Annexure A38: Name list of students studied in Community College.