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B. LAKSHMIPATHI NAIDU

v.

DISTT. EDUCATIONAL OFFICER AND ORS.

AUGUST 11, 1992

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[LALIT MOHAN SHARMA, S. MOHAN AND  
N. VENKATACHALA, JJ.]

*Special Rules for Tamil Nadu Higher Secondary Educational Service:*

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*Service Law—Experience—Teacher—Appointment as Telugu Pandit—Claim for the post of Head Master—Qualifications—Experience of ten years as B.T. Assistant or Language Pandit after obtaining teaching degree required—Decisions of High Court equating experience of Language Pandit with that of a trained Graduate—Held period of appointment as Telugu Pandit shall be counted for reckoning total experience.*

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*Precedent—Need to follow.*

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Under Special Rules for the Tamil Nadu Higher Secondary Educational Service, the minimum qualifications fixed for the post of Head Master is ten years experience as B.T. Assistant or Language Pandit after obtaining a teaching degree. The appellant- teacher working as a Telugu Pandit since 1975 obtained his degree of Master of Arts in Telugu in 1978 and Bachelor of Education in 1983. His claim to the post of Head Master which fell vacant in 1986 was rejected departmentally as well as by a Single Judge and on appeal by a Division Bench of the Madras High Court on the ground that he was not qualified for such appointment because having obtained his B.Ed. degree in 1983 his experience was only about three years when the post of Head Master fell vacant.

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In appeal to this Court it was contended on behalf of the appellant that in view of the earlier decisions of the High Court, the experience of a Language Pandit has to be equated with that of a trained Graduate.

Allowing the appeal and setting aside the judgments of the High Court, this Court,

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**HELD:** The earlier judgments of the High Court interpreting the rule in favour of Language Pandits prevailed in the State for a consider-

ably long period. The said principle has become settled and must have been applied in the other schools of the State. Therefore, the High Court, should not have departed from the settled position and should have followed the earlier decisions. Accordingly, the appellants must be treated to be fully qualified for the post of the Head Master and his case should be considered for appointment. [784F-G, 785-D]

*P. Subbannan v. The Director of School Education and Anr., : Writ Petition No. 4470 of 1982 decided on 21.2.1983; P.S. Chandrasekhar v. The Director of School Education, Madras and Ors., Writ Petition No. 7367 of 1983 decided on 18.10.1985, approved.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2944 of 1992.

From the Judgment and Order dated 11.6.91 of the Madras High Court in W.A. 737/91.

V. Krishnamurthy and V. Balachandra for the Appellant.

S. Balakrishnan, R.N. Keshwani and R. Mohan for the Respondents.

The Judgment of the Court was delivered by

SHARMA, J. Heard the learned counsel for the parties. Special leave is granted.

2. The appellant is a school teacher claiming appointment as Head Master. He has been working as a Telugu Pandit since 1975 in the School concerned. He got the degrees of Master of Arts in Telugu in 1978 and Bachelor of Education in 1983. The post of Head Master fell vacant on 1.11.1986. According to the impugned judgment of the learned single Judge of the Madras High Court, he has been held to be ineligible for the post. The decision was confirmed on appeal by a short order by a Division Bench which is under challenge in the present appeal.

3. The main ground for holding that the appellant was not qualified for the post of Head Master in 1986 is based upon the minimum qualification fixed in this regard by the Special Rules For The Tamil Nadu Higher Secondary Educational Service in its annexure by requiring the candidate to have:-

A "(iii) Experience for a period of not less than ten years as B.T. Assistant or Pandit in a Secondary School/Training School/Higher Secondary School, after obtaining a teaching degree, recognised by the Director of School Education;"

B According to the respondents, the above condition requires to have ten years experience as a Pandit, after obtaining a teaching degree, recognised by the Director of School Education. It is said that since the appellant acquired the degree only in 1983, his experience in 1986 was of about three years. The plea of the appellant that this period has to be calculated from 1975 when he was appointed as Telugu Pandit has been rejected  
C departmentally as well as by the High Court.

4. The learned counsel for the appellant has contended that in view of several other provisions in the Rules as also Instructions issued by the State, the experience of a Language Pandit has to be equated with that of a trained graduate and on this basis, at least two judgments were delivered by the Madras High Court in *P. Subbannan v. The Director of School education and another*: Writ Petition No. 4470 of 1982 dated 21.2.1983, and in *P.S. Chandrasekhar v. The Director of School Education, Madras-6 and others*: Writ Petition No.7367 of 1983 dated 18.10.1985. We have examined the judgment in *P.Subbannan's* case the High Court had to deal with the claim of Tamil Pandit and in *Chandrasekhar's* case that of a Hindi Pandit, but since the same considerations arise in regard to any language Pandit the decisions are certainly in favour of the appellant. A writ appeal was filed against the judgment in *P. Subbannan's* case, which along with another writ appeal was withdrawn by the State as is evident by the order of the Division Bench in writ appeals Nos. 950 and 951 of 1983 vide Annuxure -  
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J. The learned counsel is, therefore, right in contending that the two judgments interpreting the rule in favour of Language Pandits prevailed in the State for a considerably long period. It should further be presumed that the said principle has become settled and must have been applied in the other schools of the State. In view of this consideration, we hold that the High Court, in the present case, should not have departed from the settled position and should have followed the two decisions mentioned above.

5. The learned single Judge has also mentioned another ground for  
H rejecting the appellant's case. It has been held that for the promotion to

the post of Head Master it was necessary that the claimant had passed Accounts Test, and since the appellant was lacking in this qualification he was not eligible. The learned counsel for the appellant has drawn our attention to the G.O.Ms. No. 720 dated 28.4.1981 showing that this qualification was not to be insisted upon until further orders for appointment of Head Master of aided higher secondary schools. It is averred on behalf of the appellant and not denied on behalf of any of the respondents that the school in question is an aided higher secondary school and that no further orders to the contrary have been passed so far. The second ground put against the appellant in the impugned judgment also must be rejected.

6. For the reasons indicated above, we set aside the judgments of the High Court, rendered by the learned single Judge and the Division Bench. We further hold that the appellant must be treated to be fully qualified for the post of the Head Master. Hence his case will be taken into consideration before taking a final decision in the question of the appointment of the Head Master in the concerned school. The appeal is accordingly allowed, but in the circumstances, without costs.

T.N.A.

Appeal allowed.