

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.798 of 2022

Upendra Malsom

..... Petitioner(s)

V E R S U S

Tripura Tribal Areas Autonomous District Council (TTAADC) and others

..... Respondent(s)

For Petitioner(s) : Mr. Dipjyoti Paul, Advocate.

For Respondent(s) : Mr. B. Debbarma, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

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13/10/2023

Heard learned counsel for the parties.

Petitioner's junior has been promoted as Supervisor-ICDS.

Petitioner is stated to have joined on 16.01.1993 on the post of Junior Social Education Organizer (Jr. SEO) whereas respondent No.5 joined on 25.04.1995.

From the pleadings on record, the endorsement on the service book of the petitioner at Annexure-5 dated 22.06.2010 by the Inspector of Schools and the counter affidavit of the respondent TTAADC, it appears that there was a doubt in the minds of the respondent about his qualification. The relevant Rules require a Junior SEO to have the Madhyamik qualification. The draft seniority list dated 30.08.2019 (Annexure-1) shows the petitioner as Madhyamik plucked. Apparently, the intimation about the qualification of Madhyamik pass did not reach the competent authority when the draft revised seniority list was prepared despite an endorsement in the service book of the petitioner at Annexure-5. The respondents also bore an impression that pre-foundation course and Madhyamik (Matriculation) are not equivalent course.

However, that issue has been addressed in the case of ***Sri Dipak Debbarma vs. The State of Tripura and others [WP(C) No.1373 of 2017]*** where a Group-D employee who was not considered for promotion to the post of L.D. Clerk as he had acquired the Madhyamik qualification from Madurai Kamaraj University like the petitioner. Learned Writ Court by order dated 31.01.2019 (Annexure-12 to the rejoinder affidavit) has dealt with the matter in the following manner:

“09. Having appreciated the rival contentions as advanced by the learned counsel for the parties, this court is of the view that the petitioner has approached this court belatedly and that takes out the shaft of equity as would have been otherwise available to him but this court is of the view that the matter be remitted to the respondents, particularly to the respondent No.3, to make an inquiry about the educational certificate of the petitioner whether that can be accepted inasmuch as the certificate has been styled as “Pre-foundation course (non-semester) (secondary) and issued by the Madurai Kamraj University. Apparent on the face of the records it is not a regular course for the secondary examination, but a pre-foundation course for the further course. If it is found that , that certificate can be equated with the certificate of the secondary education then in terms of their own Memorandum No.F.2(317)-DHE/UDCA/2010/ Vol.II/1149(103) dated 10.07.2013, the respondents shall consider the petitioner’s case for promotion against the available vacancy, inasmuch as in the said memorandum dated 10.07.2013 it has been clearly provided as under:

“8. As the notice mentioned in para 4 was published on 02.04.2011 this date will be treated as the cutoff date in this regard.”

10. The exercise in respect of ascertaining the veracity of the educational certificate shall be completed within a period of 2 months from the day when the petitioner shall submit a copy of this order to the respondent No.3. If on inquiry it is found that the educational certificate, Annexure-2 to the writ petition, can be accepted as the educational certificate as equivalent to or as the certificate of passing the secondary examination, then the petitioner shall be considered for promotion within the available vacancies for promotion to the post of LDC without any further delay, preferably within a period of 4 months from the date of verification of the educational certificate.

In terms of the above, this application stands allowed to the extent as indicated above.

There shall be no order as to the costs. ”

Apparently, qualification of Madhyamik i.e. pre-foundation course issued by Madurai Kamaraj University has been found recognized in terms of

the Memorandum dated 10.07.2013 which provides that the cut-off date for treating such a qualification i.e. 02.04.2011. Petitioner had obtained Madhyamik qualification i.e. pre-foundation course from the same university prior to 02.04.2011.

The aforesaid facts perhaps seem to have been overlooked by the respondents leading to non consideration of the case of the petitioner. In such circumstances, the matter is remitted to the competent authority under the respondents to take a decision in accordance with law after verification of the relevant records and qualification of the petitioner. Dependent upon such decision, if petitioner is found to have obtained the necessary qualification by the cutoff date and is eligible, promotion from the due date be granted to him. Let such exercise be completed within a period of twelve weeks from the date of receipt of copy of this order.

Writ petition is disposed of. Pending application(s), if any, shall also stand disposed of.

(APARESH KUMAR SINGH), CJ

Rudradeep

**RUDRADEEP
BANERJEE**

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