

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-10-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.30068 of 2015

1.D.Venkatesan
2.Syed Irfan Ahmed
3.M.Thameem Ahmed
4.M.Shathish Kumar .. Petitioners
vs

1.The Secretary to Government of
Tamil Nadu
Personnel and Administrative
Reforms (M) Department
Fort St. George, Secretariat
Chennai 600 009
2.The Secretary
Tamilnadu Public Service Commission
Frazer Bridge Road
Chennai 600 003 .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the second respondent to consider the representation of the petitioners dated 24.10.2014, seeking for promotion in line with the judgment, validating the Degree obtained from the Open University after having passed the entrance test, rendered by this Court in W.P.No.28172/2013 dated 15.10.2014, filed by C.Dharuman and 5 others against the order of Joint Director of School Education (Personnel), Chennai 6, and for according consequential benefits therefrom.

For Petitioners : Mr.R.Ramachandran

For Respondents : Mr.V.Subbiah
Special Government Pleader
for R1
Miss.C.N.G.Niraimathi for R2

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The deponent of the affidavit, who is the first petitioner, would state that the petitioners have been working in the services of the second respondent viz. Tamil Nadu Public Service Commission for more than 20 years and their initial appointment was to the post of Junior Assistant and the minimum general educational qualification was SSLC and the first respondent has issued an order

on 4.1.1996, modifying the nomenclature of the staff pattern in line with the Tamil Nadu Secretariat Service and the pay was also revised on par with the Secretariat staff.

3.It is further stated by the deponent that while modifying the nomenclature, a degree qualification for all the existing staff as on 4.1.1996, was prescribed for promotion from one category to another category with a stipulation of five years from 4.1.1996 to acquire the said qualification, and accordingly, the petitioners studied the foundation course and also passed the entrance examination and subsequently, got admitted to the Degree Course and they also acquired Degree qualification within the stipulated period of five years.

4.The deponent would further aver that the first respondent has also passed G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 18.8.2009, clarifying that only Degree/Diploma/P.G. Degree after passing 10 + 2, is valid for appointment and promotion in Government service; however, in the light of the subsequent judgment passed by this Court in various writ petitions, the Degree awarded by the Open University preceded by the Foundation Course, is also a valid Degree and the Hon'ble Supreme Court of India in the decision reported in (2012) 3 MLJ 717 (CHANDRAKALA TRIVEDI V. STATE OF RAJASTHAN), has held that a degree obtained by a candidate in non-formal/distance education mode without a pass in Senior Secondary School Certificate (i.e., without passing +2 examination) is a valid one if the candidate underwent the preparatory course conducted by the University before being admitted into the degree course and the petitioners, in this regard, had submitted a joint representation dated 24.10.2014, to the second respondent and since no orders have been passed, came forward to file this writ petition.

5.Heard the submissions of the learned Counsel appearing for the petitioner, Mr.V.Subbiah, learned Special Government Pleader, who accepted notice on behalf of the first respondent, and Miss.C.N.G.Niraimathi, learned Standing Counsel, who accepted notice on behalf of the second respondent.

6.Though the petitioners prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the same, directs the second respondent to consider the petitioners' joint representation dated 24.10.2014, on merits and in accordance with law, after taking note of the judgment reported in (2015) 1 MLJ 410 (C.DHARUMAN AND OTHERS V. GOVERNMENT OF TAMIL NADU AND OTHERS), and pass orders thereon within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners. The writ petition is disposed of accordingly. No costs.

Sd/-

Asst.Registrar (CS IV)

To:

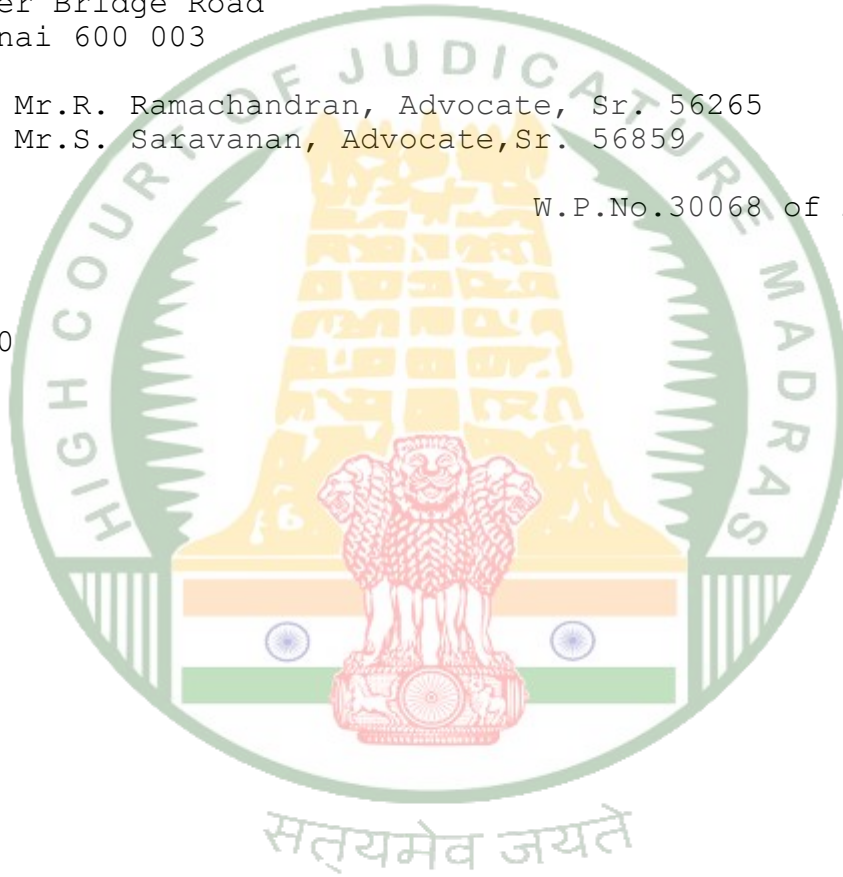
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1 cc to Mr.R. Ramachandran, Advocate, Sr. 56265
1 cc to Mr.S. Saravanan, Advocate, Sr. 56859

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