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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.12.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.22071 of 2015

and

M.P (MD) Nos.1 and 2 of 2015

A.Ponnusamy

... Petitioner

vs.

1)The State of Tamil Nadu,
Rep. by its Secretary,
Municipal Administration &
Water Supply Department,
St.George Fort, Chennai-600 009.

2)The Director of Town Panchayat,
Kuralagam, Chennai-600 108.

3)The District Collector,
Nagercoil, Kanyakumari District.

4)The Secretary,
Tamil Nadu Public Service Commission,
V.O.C Nagar, Park Town,
Chennai-600 003.

5)The Secretary,
Equivalence Committee,
Tamil Nadu Public Service Commission,
V.O.C Nagar, Park Town,
Chennai-600 003.

6)The Joint Director of Town Panchayats,
Nagercoil Division, Nagercoil,
Kanyakumari District.

...Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the 4th and 5th respondents to issue equivalency certificate to the petitioner forthwith, in the light of the G.O.Ms.No.528, Personnel and Administrative Reforms (PER.R) Department, dated 18.05.1985 and consequently direct the 1st respondent to give promotion by transfer to the petitioner for the post of Junior Assistant, in Town Panchayat, by fixing the petitioner's seniority on par with those 5 persons who were promoted by transfer as per G.O.Ms.No.70, Municipal Administration and Water Supply (Town Panchayats) Department, dated 17.06.2014, by considering the representation of the petitioner dated 17.10.2015.



For Petitioner : Mr.C.Kishore
For R1 to R3 & R6 : Mr.S.Sathish Kumar
Additional Government Pleader
For R4 & R5 : Mr.K.K.Senthil

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O R D E R

The petitioner has filed this writ petition, seeking issuance of a Writ of Mandamus, directing the 4th and 5th respondents to issue equivalency certificate to him, in the light of G.O.Ms.No.528, Personnel and Administrative Reforms (PER.R) Department, dated 18.05.1985 and consequently, to direct the 1st respondent to give him promotion by transfer to the post of Junior Assistant, in Town Panchayat, by fixing his seniority on par with those 5 persons, who were promoted by transfer as per G.O.Ms.No.70, Municipal Administration and Water Supply (Town Panchayats) Department, dated 17.06.2014, by considering the representation of the petitioner dated 17.10.2015.

2.The petitioner was appointed as a Watchman in the year 1988 and he had completed pre-foundation course from the Madurai Kamaraj University-Open University in the year 2004. According to him, there are number of vacancies in the post of Junior Assistant and 20% reservation has been given to the candidates, who are working in the department as lower grade employees in the Town Panchayat. Totally, 36 vacancies of Junior Assistant were earmarked for the Town Panchayat, Kanyakumari District, out of which, 7 vacancies have been earmarked for the department quota.

3.Learned counsel for the petitioner would submit that pre-foundation course/foundation course studied and certificate obtained will have to be treated as equivalent to SSLC/HSC. He further submitted that the respondents 4 and 5 without issuing Equivalence Certificate, has deprived the chances of the petitioner getting promotion by way of transfer and that there was a communication on 09.04.2014 by the 4th respondent, stating that the petitioner's promotion has been withheld, since the qualification obtained by him was not treated as equivalent to a pass in 10th Standard. Thereafter, out of the 7 persons, 5 persons who had been selected, were promoted. The petitioner has also given a detailed representation that injustice has been caused to him by the department and that the pre-foundation course obtained by him will have to be treated as SSLC.

4.The learned counsel for the petitioner drew the attention of this Court to G.O.Ms.No.528, Personnel and Administrative Reforms (PER.R) Department, dated 18.05.1985, and the relevant portion of the said G.O., reads as follows:-

<https://hcservices.ecourts.gov.in/hcservices/>

..... The Tamil Nadu Public Service Commission, Madras which was consulted in the matter has expressed a



view after taking into account the opinion of the University of Madras and Director of School Educationm that a pass in the Foundation Course of the Madurai Kamaraj University-Open University be recognised as equivalent to a pass in the Higher Secondary Course of the Tamil Nadu Government.''

'The Government after careful consideration, direct that the Pre-Foundation Course of the Madurai Kamaraj University-Open University be recognised as equivalent to the 10 years S.S.L.C. of the Tamilnadu Government for the purpose of entry into Public Services in this State. The Government also direct that the Two Years Foundation Course of the Madurai Kamaraj University-Open University be recognised as equivalent to Higher Secondary (+2) course of the Tamil Nadu Government for purpose of entry into Public Services in this State.''

5. According to the learned counsel, pre-foundation course of Madurai Kamaraj University-Open University is to be recognised as equivalent to SSLC of the Tamil Nadu Government, for the purpose of entering into the public service in the State and that two years foundation course in the said University will have to be recognised as equivalent to +2. According to him, withholding of promotion is on the premise that the petitioner has studied graduation with the help of those two foundation courses and any graduation acquired with the help of the two foundation courses cannot be taken into account for higher studies, but for the purpose of promotion to the present post, namely, Junior Assistant, a pass in the 10th Standard is sufficient and that in terms of G.O.Ms.No.528, Personnel and Administrative Reforms (PER.R) Department, dated 18.05.1985, the petitioner is entitled to be considered and promoted.

6. The 6th respondent has filed a counter affidavit, wherein, it has been stated that apart from other conditions, minimum educational qualification for promotion to the post of Junior Assistant, is a pass in 10th Standard. Since the petitioner has not passed SSLC in the regular schooling system, his promotion was not considered and the Government in G.O.Ms.No.70, Municipal Administration and Water Supply (Town Panchayats) Department, dated 17.06.2014, has categorically stated that the petitioner's case was not considered, because he passed the pre-foundation course of Madurai Kamaraj University, Madurai, which is an open University and it is under the process of Equivalence Committee to finalise the equivalency, that is, pre-foundation course is equivalent to 10th Standard in the regular school educational system. The learned Special Government Pleader appearing for the respondents also produced the communication dated 08.08.2013 of



the Principal Secretary to the Government, Personnel and Administrative Reforms (M) Department, Chennai, addressed to the Secretary, TNPSC, wherein, it has been clarified that pre-foundation and foundation courses were considered as not equivalent to SSLC and HSC. It is submitted that since the petitioner has not studied 10th Standard through regular schooling system, his name was not considered.

7. In reply, the learned counsel for the petitioner submitted that pre-foundation and foundation courses were considered as not equivalent to SSLC and HSC, only for the purpose of further studies and in any event, that is not applicable to the facts of this case, as the case of the petitioner is that the rule requires a pass in 10th Standard for promotion and that the petitioner is fully qualified having done the pre-foundation course through the Open University.

8. Heard both sides.

9. There is no dispute with regard to the entry of the petitioner into service, his participation and selection and that the petitioner has been ranked as 7th position in the vacancies of 7 earmarked for departmental quota out of the 36 total vacancies and that 20% of the 36 vacancies is meant for in-service candidates. The communication dated 08.08.2013 is very clear that G.O.Ms.No.528, Personnel and Administrative Reforms (PER.R) Department, dated 18.05.1985 referred to by the petitioner has been considered and it has been stated that G.O.Ms.No.528 has been issued following the procedure laid down in General Rule 19 as it stood prior to 18.08.1994, the matter need not again be placed before the Equivalence Committee. At the most, persons who have studied prior to that date alone can be considered as equivalent and not thereafter. It appears that it is an one time measure and not on permanent basis. In any event, it has been clarified that pre-foundation and foundation courses were considered as not equivalent to SSLC/HSC.

10. Though it appears to be sound on the part of the petitioner that 10th Standard alone is sufficient for promotion to the post of Junior Assistant, but completion of 10th Standard through regular schooling system is a must for promotion. In the present case on hand, since the petitioner's qualification is not treated as equivalent, this Court is not inclined to accede to the prayer made by the petitioner.

Accordingly, this Writ Petition is dismissed. No costs. Consequently, M.P(MD)Nos.1 and 2 of 2015 are closed.

Sd/-

Assistant Registrar(Crl.side)



To

- 1) The Secretary,
State of Tamil Nadu,
Municipal Administration & Water Supply Department,
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- 2) The Director of Town Panchayat,
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Nagercoil Division, Nagercoil,
Kanyakumari District.

+1cc to Mr.K.K.Senthil, Advocate in SR No.81519

+1cc to Mr.C.Kishore, Advocate in SR No.81470

W.P. (MD) No.22071 of 2015
15.12.2016

nbi

anr/gsv-pm/sar3/22.12.2016/5p/9c