

In the High Court of Judicature at Madras

Dated: 20.02.2017

Coram:

The Hon'ble Mr.Justice NOOTY. RAMAMOHANA RAO
and
The Hon'ble Mr.Justice S.M.SUBRAMANIAM

W.A.No.149 of 2017 and
C.M.P. No.2565 of 2017

S.Soundarajan ..Appellant

Vs.

The Tamilnadu Pollution
Control Board,
Rep. By its Chairman,
No.76, Mount Salai,
Guindy,
Chennai - 600 032

..Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Appeal against the Order of this Court dated 18.11.2016 made in W.P. No. 26601 of 2016.

WP.No.26601 of 2016:Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus Calling for the concerned records from the Respondent quash the order of the Respondent dated 18.07.2016 bearing Proceedings No.PER/ P2/ 035399/ 2014 as illegal arbitrary and contrary to law and consequently direct the Respondent to regularize the services of the Petitioner in the post of Assistant Statistical Officer by delcaring the probation from 07.09.2014 in the said post.

For Appellant : Mr.T.Dharani
For Respondent : Ms.Rita Chandrasekar

J U D G M E N T

[Judgment of the Court was Delivered By Nooty.Ramamohana Rao,J.,)

The appellant, whose writ petition was dismissed on 18.11.2016, has preferred this present in-house Appeal under Clause 15 of the Letters Patent.

2. The Writ Petitioner pursued the three years course of B.A. Economics from the Madras University and obtained the said Degree in the year 1989. He has also improved his academic qualification by securing admission in M.A. Economics from the Annamalai University by enrolling himself in Distance Education mode.

3. The Writ Petitioner joined the service of the Tamilnadu Pollution Control Board as a Typist. The Tamilnadu Pollution Control Board granted him promotion as 'Data Entry Operator'. At that stage, a new post, namely, 'Assistant Statistical Officer' was created in the service of the said Board. The said post is sought to be filled in by the method of promotion / recruitment by transfer from the in-service employees, who possess the following qualification:

- a) Bachelor Degree in Statistics or Economics with Statistics ancillary subject.
- b) Experience in the field of compilation of data / statistics for a period of not less than five years.

4. Since the writ petitioner / appellant was working as 'Data Entry Operator' and was compiling the data and also in view of the fact that he possess B.A. Economics Degree, the Pollution Control Board through its order dated 07.09.2012 appointed the Writ Petitioner / Appellant temporarily by the Method of Transfer to the post of Assistant Statistical Officer in the pay scale of Rs.9,300/- - 34,800/- + Grade Pay - Rs.4,600/- with allowances as applicable.

5. When a doubt has arisen in the mind of Pollution Control Board as to whether the qualification possessed by the Writ Petitioner satisfies the requirement of the recruitment Rule, they took up the matter with the Madras University. In turn, the Madras University seems to have clarified on 25.04.2016 to the effect that the subject, (Element of Quantitative Techniques) is not equivalent to Statistics / Ancillary Statistics. In view of this clarification furnished by the Madras University, by an order dated 18.07.2016, the Writ Petitioner was reverted back to the post of Data Entry Operator with immediate effect.

6. The writ petition, in fact, was instituted challenging the sustainability of the order dated 18.07.2016 passed by the Pollution Control Board, reverting the Writ Petitioner back as Data Entry Operator from the post of Assistant Statistical Officer. Since the Learned Single Judge dismissed the said Writ Petition, the present Appeal is preferred herein against.

7. Heard Mr.T.Dharani, learned counsel for the appellant, who contended that as a part of studies, graduates of Economics study the subject of statistics. At the relevant point of time, the students are also exposed to the subject of Statistics and in fact, it is subsequently, due to change of the scheme, Statistics is separately offered as an ancillary subject by the Madras University. Since the Writ Petitioner / Appellant has pursued B.A. Economics degree, in the year 1986 - 1989, he cannot be disqualified for having not studied statistics as ancillary subject, which was offered as an Ancillary subject from 2012-2013 academic year onwards by the University.

8. Alternatively, the learned counsel for the appellant would contend that the writ petitioner having studied and having passed the subject 'Elements of Quantitative Techniques', which also contains the subject statistics as part of academic curriculum, he shall be treated and construed to have studied statistics as an ancillary subject along with subject Economics at the graduation level.

9. We are not at all impressed by any of these submissions, for, Courts are ill-equipped to evaluate matters relating to academic equivalence. It may be true that when the Writ Petitioner pursued his three years graduation course between 1986-1989, the University during the year 1989, may not have offered Statistics as an ancillary subject.

10. May be that the University of Madras may have offered Statistics as an ancillary subject for those, who are pursuing B.A. Economics Degree course only from the year 2012-2013, as urged by the learned counsel for the appellant before us. That, in our opinion, is not a relevant factor. The recruitment rule framed by the Pollution Control Board for filling up the post of Assistant Statistical Officer, required the candidates to possess graduation qualification in Statistics. That qualification, the writ petitioner, admittedly does not possess. However, the rule rendered, alternatively, the candidates, who possess the graduation qualification in Economics with Statistics as an ancillary subject also eligible for getting promotion / recruitment by transfer to the post of Assistant Statistical Officer. The rule also required experience of at least five years in compilation of data and statistics.

11. Even assuming that the writ petitioner was not compiling statistics for the past five years, but, however, he is alternatively possessing knowledge of compilation of data. Therefore, the experience clause may have been satisfied by him. But the main academic requirement of possessing the minimum graduation qualification in Statistics, he does not possess. To know whether he possess the alternative qualification of B.A. Economics degree with Statistics as an ancillary subject, the

Pollution Control Board needed certain clarification and hence they addressed the University of Madras, which in turn clarified on 25.04.2016 that the Course content undergone by the Writ Petitioner / Appellant at the Graduation Level while pursuing B.A. (Economics) during the year 1989 - 1989 does not satisfy this requirement.

12.How far the Courts should maintain distance from questions relating to Academic equivalence is a matter, which has already fallen for consideration before the Hon'ble Supreme Court in Mohammad Shujat Ali and Others V. Union of India and Others reported in AIR 1974 SC at Page 1631 and in Paragraph No.13 it is laid down as under:

"13..... It must be noted that the question in regard to equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standards and practical attainments of such qualifications and where the decision of the Government is based on the recommendation of an expert body which possesses the requisite knowledge, skill and expertise for adequately discharging such a function, the Court, uninformed of relevant data and unaided by the technical insights necessary for the purpose of determining equivalence, would not lightly disturb the decision of the Government. It is only where the decision of the Government is shown to be based on extraneous or irrelevant considerations or actuated by malafides or irrational and perverse or manifestly wrong that the Court would reach out its lethal arm and strike down the decision of the Government....."

In view of this principle, in the absence of any material to demonstrate that the conclusion drawn by the Pollution Control Board that the writ petitioner / appellant did not satisfy the basic academic requirement to hold the post of Assistant Statistical Officer is either irrational or perverse, we cannot interfere with the decision contained in the Impugned Order dated 18.11.2016. We see no merit in this Writ Appeal and it accordingly stands dismissed at the admission stage. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

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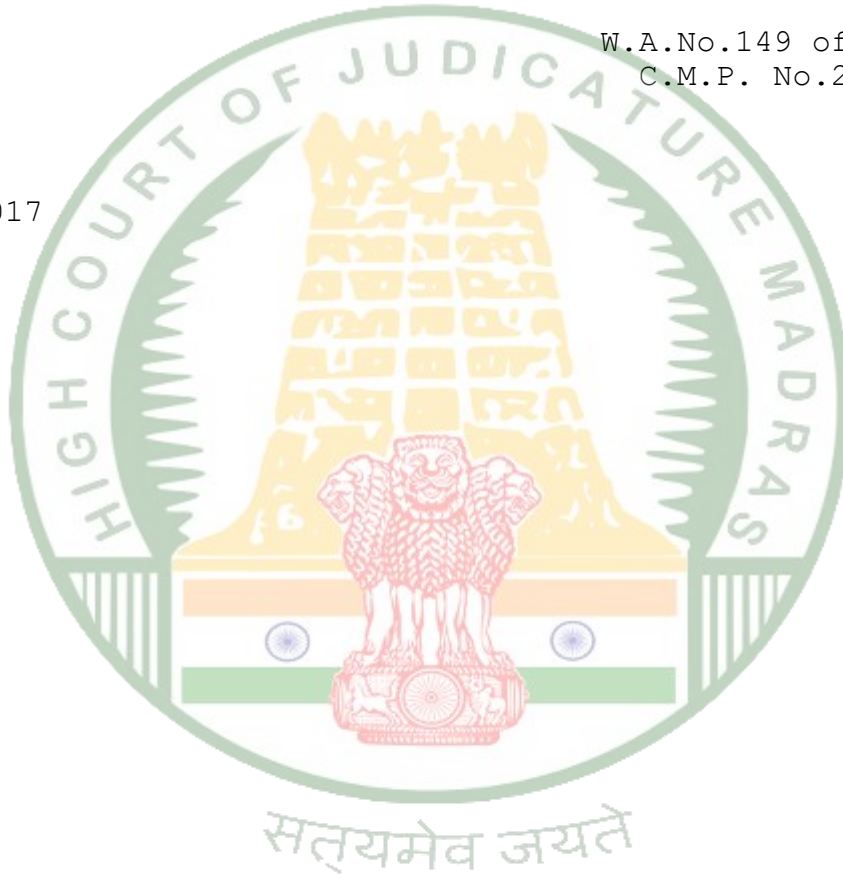
Sub-Assistant Registrar

ssd

To
The Chairman
The Tamilnadu Pollution
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No.76, Mount Salai,
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