

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.27529 of 2012

and M.P.No.2 of 2012

M.Rajesh Kumar ... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.

2.The Director of Libraries,
737, Anna Salai,
Chennai-600 002.

3.S.Mohanavelu,

4.N.Agilan

5.V.Thanikachalam

(R3 to R5 impleaded as per order dated
27.06.2014 in M.P.No.1 of 2014) ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records relating to the impugned order passed by the respondents in G.O.Ms.No.251, School Education Dated 03.10.2007 and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.G.Sankaran
For Respondents : Mr.K.Dhananjayan,
Special Government Pleader for R1 & R2
Mr.M.Purushothaman for R3 to R5

O R D E R

The petitioner would submit that initially he joined the post of Librarian Grade III in the Department of Library in the year 1994, based on his qualification of XII standard and Certificate of Librarian and Information Science (CLIS) and subsequently, he studied B.A. degree and Bachelor of Librarian and Information Science (BLIS) and further qualified with M.A. as well as Master of Librarian and Information Science (MLIS) and was promoted to the post of Librarian Grade II in the year 2007. It is averred by the petitioner that various posts in the Department of Library is governed by Adhoc Rules relating to Tamil Nadu Subordinate Educational Services, framed in exercise of powers conferred under proviso to Article 309 of the Constitution of India duly notified in G.O.Ms.No.60, School Education Department dated 27.04.2006 and the rules have come into force with retrospective effect from 01.04.1982 as per the notification and as per the Special Rules applicable to the post in the Department of Library, the method of appointment have been fixed for the post of Librarian Grade III (Trained), Librarian Grade III (Untrained), Librarian Grade II, Librarian Grade I and Inspector of Libraries and the relevant rules are extracted as below:

Name of the Post	Methods of Appointment	Qualifications
Class 1: 1. Inspector of Libraries	i. By Promotion ii. By Transfer	A Degree of any University recognized by the University Grants Commission; and A Degree in Library and Information Science of any University recognized by the University Grants Commission.
2. Librarian Grade I	i. By Transfer ii. By Promotion	A Degree of any University recognized by the University Grants Commission; and A Degree in Library and Information Science of any University recognized by the University Grants Commission

Name of the Post	Methods of Appointment	Qualifications
3 Librarian Grade II	i. By Transfer ii. By Promotion	A pass in SSLC or Matriculation or its equivalent and a Certificate in Library and Information Science or its equivalent approved by the State Government
4. Stock Verification Officer	i. By promotion	A pass in SSLC or Matriculation or its equivalent and a Certificate in Library and Information Science or its equivalent approved by the State Government
5. Librarian Grade III (Trained)	(a) i. By promotion ii. By recruitment by transfer from any other service iii. By Direct Recruitment	i. A pass in SSLC or its equivalent; and ii. A pass CLIS or its equivalent approved by the State Government
(b) Librarian Grade III (Untrained)	i. By promotion ii. By recruitment by transfer from any other service iii. By direct recruitment.	A pass in SSLC or its equivalent; or Without Minimum General Educational Qualification with 15 years of service in the post of Record Clerk in Public Libraries Department. A pass in SSLC or its equivalent A pass in SSLC in its equivalent.

Subsequently, the said Service Rules have been amended and notified in G.O.Ms.No.292, School Education Department dated 12.12.2007 with effect from 05.02.1997 as per which, minimum qualification for appointment to the post of Librarian Grade III has been revised as Higher Secondary Examination instead of SSLC or Matriculation.

2. Mr.G.Sankaran, learned counsel appearing for the petitioner would submit that subsequently, the said rules have been amended vide G.O.Ms.No.172, School Education Department dated 14.09.2006 with retrospective effect from 17.02.1992, wherein the method of appointment and qualification for the post of Librarian Grade-I is amended and it is relevant to extract the same:

Class (1)	Category (2)	Method of appointment (3)
1	Librarian Grade -I	i. By promotion from the posts of Librarian Grade II or; Stock Verification Officer, in the ratio of 1:1 between the Graduate and the Non-Graduates who have completed the age of 55 years; or ii. By Transfer from the post of Inspector of Libraries: Provided that in the event off non-availability of suitable person for promotion in a particular turn such turn shall lapse.

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Name of the Post	Methods of Appointment	Qualifications
Librarian Grade -I	i. By promotion	A Degree of any University recognized by the University Grants Commission And A Degree in Library and Information Science of any University recognized by the University Grants Commission
	ii. By transfer	A Degree of any University recognised by the University Grants Commission And A Degree in Library and Information Science of any University recognized by the University Grants Commission
	iii. By promotion from Non-Graduates	(i) With the Certificate in Library and Information Science from a recognized institution (ii) Should have completed the age of 55 years.

3. As per the amended rules, as extracted above, the post of Librarian Grade-I can be filled up by promotion from the post of Librarian Grade-II in the ratio of 1: 1 between Graduates and Non-Graduates, who have completed the age of 55 years and according to the learned counsel appearing for the petitioner, at the worst, the petitioner can hold the post of Librarian Grade-I and in pursuant to the said amended qualification, the petitioner has no grievance. It is the further submission of the learned counsel appearing for the petitioner that to the shock and surprise of the petitioner, G.O.Ms.No.251, School Education Department dated 03.10.2007 came to be issued, as per which Service Rules are sought to be amended by deleting the age restriction of 55 years and above, for non graduates for promotion to the post of Librarian Grade-I and thereby, relaxation has been given to non-graduates to get promotion to the post of Librarian Grade I merely on completion of 3 years of service in the post of Librarian Grade II and challenging the

legality of the same, the petitioner has come forward with this writ petition.

4. The Writ Petition was entertained on 09.10.2012 and an order of interim stay was granted for a period of four weeks and it has been subsequently made absolute and the private respondents/non-graduate Librarians Grade-II subsequently got impleaded, vide order dated 27.06.2014 in M.P.No.1 of 2014 and M.P.No.1 of 2013 was filed for vacating the interim order and it was dismissed on 11.01.2017.

5. The learned counsel appearing for the petitioner would further submit that the post of Librarian Grade-I carries onerous tasks and responsibilities and dilution of the prescribed essential qualification from graduation to non-graduation and relaxation in the form of prescription of 3 years of service in the post of Librarian Grade-II for promotion to the post of Librarian Grade-I is per se unsustainable and it amounts to reasonable classification and nothing sought to be achieved in terms of intelligible criteria and prays for interference.

6. Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents 1 and 2 has invited the attention of this Court to the counter affidavit as well as typed set of documents and would submit that prescription of age limit of 55 years to non-graduates for promotion to the post of Librarian Grade-II, there may not be any grave hardship to the petitioner and they hardly get promotion and whereas the non-graduates can reach the higher level posts and taking into consideration their work experience, a fair decision has been taken and would further aver that most of them reached the age of 50 years and above and as such, the petitioner may not be really aggrieved and prays for dismissal of the writ petition.

7. Mr.M.Purushothaman, learned counsel appearing for the private respondents has invited the attention of this Court to the counter affidavit filed by them as well as the judgment in Roop Chand Adlakha and Others v. Delhi Development Authority and Others [1989 Supp (1) SCC 116] and would submit that the impugned Government order amending the relevant service rules amounts to formulating policy decisions which prescribes conditions for fixation of eligibility in respect of non-graduates who are holding the post of Librarian Grade-II to reach the level of Librarian Grade -I and in the absence of any discrimination, it cannot be termed as bad and would further submit that most of them are going to retire soon and whereas the petitioners who are graduates, may reach the higher level upto the level of Director of Public Libraries and prays for dismissal of this writ petition.

8. In reply to the said submission, the learned counsel appearing for the private respondents and the learned Special Government Pleader appearing for the official respondents has invited the attention of this Court to the proceedings of the District Library Officer, Chennai-600002 in Na.Ka.No.774/A/2017 dated 08.02.2017, containing the draft seniority list for the post of Stock Verification Officer/Librarian Grade II as on 01.01.2017 and would submit that the said draft tentative list has been prepared taking into consideration the date of joining to the post of Librarian Grade II and the petitioner is placed at Sl.No.71 and since the interest of non-graduates have been taken into consideration by the Directorate of Public Libraries by preparing the draft seniority list, the writ petitioner as well as the private respondents may not have any grievance and they may be permitted to finalize the draft seniority list and thereafter to consider the claim of non-graduates for the post of Librarian Grade-I if they being otherwise eligible and prays for appropriate orders.

9. This Court has considered the rival submissions and also perused the entire materials placed before it.

10. The learned counsel appearing for the petitioner as well as the learned counsel appearing for the private respondents, on instructions, would submit that if the draft seniority list prepared by the Directorate of Public Libraries, Chennai-600002 is finalized as it is, they may not have any grievance.

11. It is a well settled position of law that draft seniority list should be put on notice and objections has to be invited and it should be finalized and thereafter, promotions be given to the concerned employees, subject to they being otherwise eligible.

12. In the result, this Writ Petition is disposed of and the second respondent is directed to invite objections in respect of the draft seniority list prepared by them for the post of Stock Verification Officer/Librarian Grade-II as on 01.01.2017, as per the proceedings in Na.Ka.No.774/A/2017 dated 08.02.2017, within a period of two weeks from the date of receipt of a copy of this order and after receipt of objections, they shall finalize the seniority list within a period of one week thereafter and publish the same and thereafter, may give promotion from the final seniority list to the post of Librarian Grade-II in respect of employees otherwise being found eligible. The entire exercise should be completed on or before 09.06.2017. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
The State of Tamil Nadu,
School Education Department,
Secretariat, Chennai-600 009.

2.The Director of Libraries,
737, Anna Salai,
Chennai-600 002.

+1cc to Mr.G. Sankaran, Advocate, S.R.No.25778

+2cc to Mr.M. Purushothaman, Advocate, S.R.No.25360

+1cc to the Government Pleader, S.R.No.26437

ks (CO)

md(02/05/2017)

W.P.No.27529 of 2012

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