

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.29822 of 2010

and

M.P.No.2 of 2010

G.Manickam

.. Petitioner

Vs.

1.The Secretary to Government,
Planning Development and
Special Initiative (ST2 & E)
Department, Fort St. George,
Chennai - 9.

2.The Director,
Evaluation and Applied Research
Department, III Floor,
Kuralagam, Chennai - 108.

3.The Secretary,
Tamil Nadu Public Service Commission,
Chennai - 2.

... Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the first respondent in passing of G.O.Ms.No.4 Planning Development and Special Initiative Department dated 29.01.2010 and quash the same insofar as deleting the petitioner's name from the panel for the post of Research Officer is concerned and thereby direct the respondents to include the petitioner's name in the panel for the post of Research Officer.

For Petitioner .. Mr.L.Chandrakumar

For Respondents.. Mr.T.M.Pappiah,
Spl. Govt. Pleader for R1 & R2
Ms.C.N.G.Niraimathi for R3

ORDER

The petitioner has approached this Court seeking the following relief:

to issue a writ of certiorarified mandamus to call for the records of the first respondent in passing of G.O.Ms.No.4 Planning Development and Special Initiative Department dated 29.01.2010 and quash the same insofar as deleting the petitioner's name from the panel for the post of Research Officer is concerned and thereby direct the respondents to include the petitioner's name in the panel for the post of Research Officer.

2.The petitioner is in possession of Masters Degree in Business Administration (MBA) from Bharathiyar university. He joined the service of the respondents as Research Assistant in 1989 through the Tamil Nadu Public Service Commission. After qualifying in the departmental examination, he was appointed as Senior Research Assistant in 1994. The next avenue of promotion for the petitioner was to the post of Research Officer and according to the petitioner, he became eligible for consideration for appointment in the year 2007-2008. The name of the petitioner was also included in the panel vide G.O.Ms.No.133 Planning, Development and Special Initiatives (ST.2 & E) Department dated 31.08.2008. However, the petitioner was informed that inclusion of his name is subject to issue of Government Order recognising his qualification in Business Administration as equivalent to M.A. (Public Administration), which according to the respondents is a qualification prescribed for appointment to the post of Research Officer.

3.According to the petitioner, the Government had issued an order in G.O.Ms.No.30 Planning and Development (PR) Department dated 19.04.1982 amending the Service Rules governing the service conditions of the employees employed in Evaluation and Applied Research Department. As per the amendment, the qualification of Post Graduate Degree in Business Administration was prescribed as one of the qualifications along with other qualification viz., Post Graduate Degree in Economics or Econometrics or Statistics or Mathematics or Agricultural Economics for promotion from the post of Research Assistant. The said amendment was brought into force with effect from 27.04.1974.

4.While matter stood thus, the petitioner was eventually not considered for promotion as Research Officer and therefore, he was constrained to send number of representations to the authorities concerned. In response to his representation, the

Government has issued an order on 29.01.2010 by deleting the name of the petitioner from being considered for promotion to the post of Research Officer. The said order is impugned in the present writ petition. According to the impugned order, the M.B.A. Degree obtained by the petitioner from Bharathiyar University was not equivalent to M.A. (Public Administration), which was one of the qualifications prescribed for appointment to the post of Research Officer. In the above said circumstances, the petitioner represents to the authorities and the same came to be rejected vide proceedings dated 21.05.2010 by the second respondent stating that as per Adhoc Rules applicable for appointment to the post of Research Officer, qualification of M.B.A. was not prescribed and hence the claim of the petitioner could not be acceded to. Challenging the decision of the second respondent in not considering the claim of the petitioner for appointment to the post of Research Officer, the present writ petition is filed.

5. Upon notice, Mr. T. M. Pappiah, learned Special Government Pleader entered appearance on behalf of respondents 1 and 2 and filed a detailed counter.

6. Mr. L. Chandrakumar, learned counsel appearing for the petitioner would strongly contend that the amendment which was issued in 1982 through G.O. Ms. No. 30 Planning and Development (PR) Department dated 19.04.1982 had not been considered in proper perspective by the authorities concerned. The amendment clearly stipulates that post graduate degree in Business administration is one of the qualifications prescribed along with Public Administration and Public Management or Economics or Econometrics or Statistics etc., for promotion from the post of Research Assistant. He would particularly emphasise the fact that the amendment stipulates that such qualification has to be applied for promotion from the post of Research Assistant. The Rules which prescribe qualification for appointment to the post of Research Officer stood automatically amended or it should be taken to be a deemed amendment since admittedly the amendment was put into effect retrospectively from 27 April 1974.

7. Learned counsel appearing for the petitioner would also submit that even at the entry level, the qualification of M.B.A. was prescribed and the same was held to be valid for the purpose of promotion as Senior Research Assistant. That being the case, holding that the petitioner was not having a valid post graduate degree for the purpose of appointment as Research Officer is totally misconceived and the same is preposterous and cannot be countenanced both in law and on facts.

8. Learned Special Government Pleader would contend that as per the Adhoc Rules, which govern the promotion to the post of Research Officer, post graduate degree in Business

Administration is not one of the qualifications prescribed and such qualification was prescribed only at the entry level post of Research Assistant and therefore, as far as the petitioner's claim for promotion to the post of Research Officer is concerned, he did not have the requisite qualification. According to the learned Special Government Pleader, the administration is only following the Adhoc Rules which admittedly does not contain the post graduate degree in Business Administration as one of the qualifications for appointment to the post of Research Officer. According to him, rules have been in force since 1979.

9.This Court has considered the rival submissions of the learned counsels and perused the materials and pleadings placed on record. The attention of this Court was drawn to the Rules which is applicable to the Evaluation and Applied Research Department which was issued vide G.O.Ms.No.112 Planning and Development (PR) Department dated 01.10.1981. Although, initially prescription of post graduate degree in Business Administration was not there, but subsequently, by G.O.Ms.No.30 Planning and Development (PR) Department dated 19.04.1982, relevant Rules came to be amended by inserting post graduate degree in Business Administration as one of the qualifications for appointment to the post of Research Officer and also promotion from the post of Research Assistant. That being the case, this Court has no doubt that the post graduate degree in Business Administration cannot be held to be invalid qualification for consideration of the petitioner's claim for appointment as Research Officer.

10.As rightly contended by the learned counsel for the petitioner, it is preposterous that the administration had been following the Adhoc Rules while making appointment to the post of Research Officer. Moreover, when post graduate degree in Business Administration is a recognised qualification for the purpose of entry level appointment and also promotion to the post of Senior Research Assistant, the impugned order passed by the respondents holding such degree as invalid for the purpose of next higher promotion is completely without any justification, more particularly in the face of the amendment, which was brought into force with effect from the year 1974. The amendment which was brought in by G.O.Ms.No.30 Planning and Development (PR) Department dated 19.04.1982 must be read in totality as per the scheme of Adhoc Rules, which clearly states that "promotion from the post of Research Assistant", post graduate degree in Business Administration is one of the qualifications prescribed. Such being the case, the denial of promotion to the petitioner is clearly unacceptable and cannot be countenanced both in law and on facts. In view of the above, the writ petition is liable to be allowed. Therefore, the impugned order passed by the first respondent dated 29.01.2010

is set aside. There shall be a consequential direction to the respondents to include the petitioner's name in the original panel for appointment to the post of Research Officer with all attendant and consequential benefits as admissible to the post of Research Officer. The said direction shall be complied with by the respondents within a period of two months from the date of receipt of a copy of this order.

11. The writ petition stands allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar (CS III)

/true copy/

Sub Asst. Registrar

mmi

To

1. The Secretary to Government,
Planning Development and
Special Initiative (ST2 & E)
Department, Fort St. George,
Chennai - 9.
 2. The Director,
Evaluation and Applied Research
Department, III Floor,
Kuralagam, Chennai - 108.
 3. The Secretary,
Tamil Nadu Public Service Commission,
Chennai - 2.
- +1cc to M/s.L.Chandrakumar, Advocate sr.64599
- +1cc to Government Pleader, sr.64957

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NRI (co)
ss (25/10/2017)