

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2019

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Appeal No.1097 of 2018 and
C.M.P.No.9000 of 2018

1. The Secretary to Government
Planning Development and
Special Initiatives (ST2&E) Department,
Fort St. George,
Chennai - 600 009
 2. The Director,
Evaluation and Applied Research Department,
Kuralagam, 3rd Floor,
Chennai - 600 108 ... Appellants/RR1 & R2
- Vs.
1. G.Manickam
Senior Research Assistant ...R1/Petitioner
 2. The Secretary,
Tamilnadu Public Service Commission,
Chennai - 600 002 ... R2/R3

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order of this court dated 06.09.2017 passed in W.P.No.29822 of 2010.

WP.No.29822 of 2010:Writ 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 respondent 1 in passing of G.O.Ms.No.4 Planning Development and Special Initiative Department dated 29.01.2010 and quash the same in so far as deleting of petitioners name from the panel for the post of Research Officer is concerned and thereby direct the respondents to include petitioners name in the panel for the post of Research Officer.

For Appellants : Mrs.A.Srijayanthi
Special Government Pleader

For Respondents : Mr.L.Chandrakumar for R1
Ms.C.N.G.Niraimathi for R2

J U D G M E N T

(Judgment of the Court was made by K.K.SASIDHARAN, J.,)

The Intra-Court appeal is directed against the order dated 06.09.2017 in W.P.No.29822 of 2010 whereby and whereunder the learned single Judge quashed the order in G.O.Ms.No.4 Planning Development and Special Initiative Department dated 29.01.2010 in relation to the post of Research Officer and directed the State to include the name of the 1st respondent in the original panel for appointment to the post of Research Officer.

2. The 1st respondent obtained Masters Degree in Business Administration from Bharathiar University. He was appointed as Research Assistant in the year 1989. He was later appointed as Senior Research Assistant. The next avenue of promotion is to the post of Research officer. The name of the respondent was included in the panel for further promotion. The panel was prepared in G.O.Ms.No.133 dated 31.08.2008. There was a condition annexed to the effect that inclusion of the name of the 1st respondent is subject to the issuance of necessary Government Order recognising his degree in M.B.A. as equivalent to M.A.[Public Administration], which is the qualification prescribed for the post of Research Officer.

3. The question as to whether the M.B.A. Degree obtained by the appellant is equivalent to M.A.[Public Administration] which is the qualification prescribed, was referred to the Equivalence Committee under the Chairmanship of Chairman, Tamilnadu Public Service Commission. The committee took a decision that the qualification is not equivalent.

4. The name of the 1st respondent was deleted from the panel issued by the Government in G.O.Ms.No.4 Planning Development and Special Initiative Department dated 29.01.2010. It was the said amended order, which was challenged by the 1st respondent before the writ court.

5. The learned single Judge found that post graduate degree in Business Administration was not the essential qualification initially. Subsequently, as per G.O.Ms.No.30 Planning and Development (PR) Department dated 19.04.1982, Rules were amended by inserting post graduate degree in Business

Administration as one of the qualifications for appointment to the post of Research officer and for promotion from the post of Research Assistant.

6. The learned single Judge opined that when post graduation in Business Administration is a recognised qualification for the entry level post and for promotion to the post of Senior Research Assistant, the appellants herein were not correct in insisting that the qualification should be M.A. [Public Administration], for promotion to the post of research officer.

7. There is no dispute that the Government issued an order in G.O.Ms.No.30, Planning and Development (PR) Department dated 19.04.1982, amending the eligibility criteria for appointment to the post of Research Assistant and Junior Assistant. However, the fact remains that there was no amendment to the educational qualification for appointment to the post of Research Officer. Merely because there was a change in the qualification of the post at the entry level or rather the feeder category, it cannot be stated that the very same qualification should be prescribed for the higher post.

8. The post of Research Officer is a responsible position. The Government in its wisdom prescribed the M.A.[Public Administration] as the essential qualification for appointment to the post of Research Officer. It is not for the Court to say that a particular qualification should be prescribed for the higher post.

9. There was no amendment made to the Ad-hoc Rules for appointment to the post of Research Officer. The prescribed qualification is, Post-graduate degree in Economics or Econometrics or Statistics or Mathematics or Sociology or Public Administration or Agricultural Economics.

10. The question of equivalence is essentially a matter to be decided by the Constituted Body. The Body constituted by the 2nd respondent for deciding equivalence arrived at a conclusion that the postgraduate in Business Administration obtained by the 1st respondent is not equivalent to the prescribed qualification. So long as the ad-hoc Rules prescribe a particular qualification, it would not be correct to direct the Government to promote the 1st respondent in spite of his non-possession of the necessary qualification.

11. The fact that the Government subsequently amended the eligible criteria for the post of Research Assistant and junior assistant by issuing an order in G.O.Ms.No.30, Planning and

Development (PR) Department dated 19.04.1982, it cannot be stated that such qualification should apply even to the post of Research Officer, notwithstanding the qualification prescribed in the ad-hoc Rules issued in G.O.Ms.No.276 Finance [PR] Department dated 27.02.1976. This aspect was not considered by the learned single Judge.

10. The Supreme Court in P.U.Joshi and ors. vs. Accountant General, Ahmedabad and ors., (2003(2) SCC 632), indicated the extent of judicial review in matters relating to conditions of service.

The Supreme Court said :-

"10 ... Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation / abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/ subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/ posts. There is no right in any employee of the State to claim that rules governing conditions of his

service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service".

11. The order dated 06.09.2017 is set aside. The Writ Petition in W.P.No.29822 of 2018 is dismissed.

12. The Intra-Court Appeal filed by the State is allowed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssd/tar

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,
Tamilnadu Public Service Commission,
Chennai - 600 002
+1 cc to Mr.L.Chandrakumar Advocate sr58205
+1 cc to the Government Pleader HighCourt Madras
sr 58579

W.A. No.1097 of 2018

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