

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 05-12-2019

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.32577 OF 2019

D.Mariyammal

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Petitioner

-vs-

1.The Chief Educational Officer,
Tiruvallur District,
Tiruvallur - 602 001.

2.The District Educational Officer,
Tiruttani Educational District,
Tiruttani,
Tiruvallur District.

3.The Block Educational Officer,
Thiruvallangadu Union,
Thiruvallangadu,
Tiruvallur District.

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Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents herein to issue the Panel for promotion as BT Assistant (Science) in Thiruvallangadu Union as on 01.01.2019 by including the name of the petitioner at Sl.No.1 therein and to promote her in the existing vacancy in Panchayat Union Middle School, Rangapuram, Thiruvallangadu Union, Tiruvallur District, and grant her consequential benefits.

For Petitioner : Mr.M.Ravi

For Respondents : Mrs.V.Annalakshmi,
Government Advocate.

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ORDER

This Writ Petition has been filed seeking for a direction to the respondents to prepare a Panel for promotion to the post of B.T.Assistant (Science) in Thiruvallangadu Union.

2. According to the petitioner, she was appointed as a Secondary Grade Assistant in the year 2009; her services were regularised later on; she pursued B.Sc. (Chemistry) course and

completed the same in February,2018; thereafter, she submitted a representation to the third respondent to make necessary entry in her Service Register with regard to acquiring B.Sc. (Chemistry) Degree and, after sending the certificate for verification, it was confirmed that she completed B.Sc. (Chemistry) in February,2018; the said confirmation was given by the Controller of Examinations, Periyar University, Salem, vide his letter, dated 11.04.2019; however, Panel for promotion had not been prepared for Thiruvallangadu Union; she made a request for preparing the Seniority List and to add her name therein to consider her for promotion to the post of B.T.Assistant; and, since the same has not been acted upon, the present Writ Petition has been filed.

3. Mr.M.Ravi, learned counsel for the petitioner, has submitted that the petitioner has acquired the qualification of B.A.(English) during May,2012; B.Ed. during December,2015; and B.Sc.(Chemistry) during February,2018; therefore, she is entitled to be considered for promotion to the post of B.T.Assistant; however, since Promotion Panel has not been prepared for Thiruvallangadu Union, the petitioner made a request, but it is not considered by the respondents. According to the learned counsel, the petitioner possesses all the required qualifications as on the crucial date i.e., 01.01.2019 and, therefore, the name of the petitioner must be included in the Panel to be considered for promotion to the post of B.T.Assistant.

4. Respondents have filed a counter affidavit.

5. Mrs.V.Annalakshmi, learned Government Advocate, appearing for the respondents, has submitted that Genuineness Certificate was issued by the authority concerned only on 11.04.2019 and, since it was received by the respondents after the crucial date viz., 01.01.2019, the name of the petitioner is not entitled to be added in the Panel. She further submitted that the so called representation, dated 27.11.2018, which is said to have been submitted by the petitioner to enter in the Service Register regarding her completion of B.Sc.(Chemistry) course, is not genuine and, therefore, the petitioner has approached this Court with unclean hands. According to the learned Government Advocate, the petitioner is not entitled for consideration to be added in the Panel for promotion to the post of B.T.Assistant, since the Genuineness Certificate was received by the respondents only on 11.04.2019 and the entry was made in the Service Register on 08.08.2019. Accordingly she sought for dismissal of the Writ Petition.

6. This Court has carefully considered the submissions made by the learned counsel on either side coupled with the material available on record.

7. The entire dispute in this case revolves around the preparation of a Panel for promotion to the post of B.T.Assistant and the crucial date fixed for it was 01.01.2019. The relevance of crucial date is to see whether a person has acquired necessary qualifications in order to be considered for the next level of promotion. If a person acquires a qualification after the crucial date, the said person may not be entitled to be considered for promotion for the relevant year.

8. In this case, even as per the counter affidavit filed by the respondents, the petitioner has acquired the qualifications much before the crucial date i.e., 01.01.2019. It is also clear that the petitioner possesses all the qualifications to be considered for promotion to the post of B.T.Assistant. The only objection that has been raised by the respondents is that the Genuineness Certificate was received from the University concerned only on 11.04.2019 and the entry was made in the Service Register on 08.08.2019 and, therefore, the name of the petitioner cannot be added in the Panel since the above events had taken place after 01.01.2019, which was fixed for drawing of Panel.

9. The above stand taken by the respondents, in the considered opinion of this Court, is totally unsustainable. The Genuineness Certificate that was issued by the University and the entry that was made in the Service Register would only fortify the fact that the petitioner has completed her B.Sc. (Chemistry) course. Admittedly, the B.Sc.(Chemistry) course was completed by the petitioner in February, 2018, itself. Therefore, the said fact having been confirmed, its entry in the Service Register beyond the crucial date cannot be put against the petitioner. What the Rules provide is only the minimum qualification that is required for adding the name of a person in the Panel to be considered for promotion. Such hyper-technical procedures regarding the entries made after the crucial date cannot take away the right of the petitioner to be considered for promotion to the post of B.T.Assistant. Therefore, the above stand taken by the respondents is hereby rejected.

10. In view of the above discussion, there shall be a direction to the first respondent - Chief Educational Officer, Tiruvallur - to prepare a Panel for promotion to the post of B.T.Assistant (Science) in Thiruvallangadu Union with the crucial date as on 01.01.2019 and add the name of the petitioner in the Panel according to her seniority. Thereafter, promotions shall be accorded strictly in accordance with the relevant Rules and after satisfying that the candidates have fulfilled all the requirements. The said exercise shall be completed strictly within a period of four weeks from the date of receipt of a copy of this order.

11. Writ Petition is allowed accordingly. No costs.
Consequently, the connected W.M.P.No.32957 of 2019 is closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar

dixit

To

1.The Chief Educational Officer,
Tiruvallur District,
Tiruvallur - 602 001.

2.The District Educational Officer,
Tiruttani Educational District,
Tiruttani,
Tiruvallur District.

3.The Block Educational Officer,
Thiruvallangadu Union,
Thiruvallangadu,
Tiruvallur District.

+lcc to the Government Pleader, S.R.No. 102936

W.P.No.32577 OF 2019

VG II(CO)
GN(29/01/2020)

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