

In the High Court of Judicature at Madras

Dated : 26.02.2019

Coram :

The Honourable Dr.Justice ANITA SUMANTH

Writ Petition No.16276 of 2017
& WMP No.17606 of 2017

M.Mahendran

.... Petitioner

Vs

1 The Commissioner,
Most Backward Classes and Minority Welfare Department,
Ezhilagam, Chennai.

2 The District Backward Classes Minority Welfare Officer,
Villupuram District.

3 The District Revenue Officer,
Revenue Department,
Villupuram District. Respondents

PETITION filed under Article 226 of The Constitution of India praying for the issuance of Writ of Mandamus directing the 2nd respondent to promote the petitioner as Tutor-cum-Warden by entering the B.Ed. Degree in the Service Register of the petitioner.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mrs.Janaki, Spl.G.P.

ORDER

The petitioner seeks a mandamus directing the 2nd respondent, the District Backward Classes Minority Welfare Officer to promote him as a Tutor-cum-Warden by entering the B.Ed. Degree obtained by him in his service record.

2. The petitioner has completed the course and obtained a B.Com degree, thereafter joining as a watchman in a Polytechnique College Hostel at Aragandanallur, Villupuram District. He completed an M.Com., after obtaining prior permission and sought permission to study B.Ed. in a regular college. The permission

was granted on 05.11.2012, pursuant to which, he undertook the course and informed the authorities of the same. In the meanwhile however, on 27.05.2013, the 2nd respondent appears to have passed the impugned order withdrawing the permission granted earlier for pursuing B.Ed. The petitioner states that, in fact, the time taken to pursue B.Ed. was on loss of pay and other similarly placed persons have been promoted to the post of Warden upon completion of the course in situations identical to the present.

3. The impugned order was passed by the third respondent relying on G.O.Ms.No.200, Personnel and Administrative Reforms Department dated 14.09.1996 stating that persons wishing to pursue B.Ed should pursue the same only in evening College or Open University.

4. A counter has been filed by the second respondent, again relying upon G.O.Ms.No.200, Personnel and Administrative Reforms dated 14.09.1996.

5. Having heard learned counsel, I am of the view that the impugned order has no legs to stand. The permission granted is dated 05.11.2012, pursuant to which, the petitioner has enrolled in the course. The cancellation has been effected after an expiry of seven months relying upon G.O.Ms.No.200 dated 14.09.1996. A reading of the G.O. in question however, does not support the order of rejection. The G.O. reads thus:

'In the G.O. first read above, it has been directed that a Government servant who joins the correspondence course conducted by various universities should obtain prior permission of the Head of the Department concerned. As a measure of further liberalisation the power to grant permission is delegated to the Head of offices with conditions that the grant permission to the staff will be without detriment to the normal functions of the offices concerned.

2. It has been suggested to the Government to further to relax the process of obtaining prior permission from the Heads of Department/Head of the Offices for undergoing correspondence course/attending evening colleges. The Government therefore direct that the application received from the Government servants seeking prior permission for joining correspondence course/evening college/private study shall be disposed of by the Head of office/Heads of Department within fifteen days from the date of the receipt of application. If any clarification or particulars are sought for from the Government servant, the said period of 15 days shall be reckoned from the date of receipt

of such clarification or particulars. Where no order (according such permission) has been issued within the said period of 15 days, it shall be deemed that the Head of the Department/Head of the office has granted permission for joining correspondence course/evening college. Head of Departments will be held responsible if any ineligible person happens to avail of deemed permission by default.'

6. The G.O. liberalises the procedure to be followed for grant of prior permission for study in evening college and correspondence courses. This G.O., does not anywhere support the stand of the Government that it mandatory for the study to be only in evening college or over correspondence. This inference cannot be drawn from the G.O. itself and I am thus of the view that the revocation of the permission based on G.O.Ms.No.200 dated 14.09.1996 is misconceived.

7. The petitioner is yet to reap the benefit of the degree obtained by him till date despite he being qualified for the post of Tutor-cum-Warden and despite orders of ratification having been passed in other cases of other identically placed persons.

8. When, in identical cases, persons who have pursued B.Ed degree in regular course of study have been granted the benefit of the course and consequential promotion, there is some justification in the argument of the petitioner that he has been discriminated against.

9. In the aforesaid circumstances, this Writ Petition is allowed. The second respondent is directed to pass orders, entering the B.Ed degree in the service record of the petitioner and granting all consequential benefits thereto to the petitioner, within a period of two (2) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

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Sub Assistant Registrar

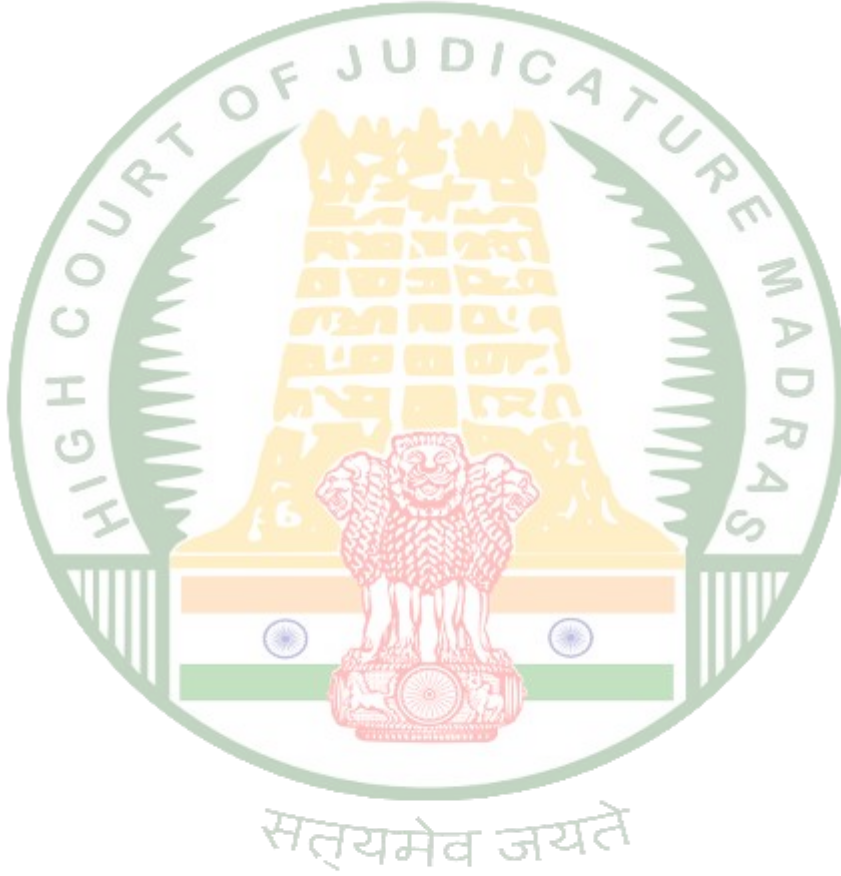
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To

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