



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2019

CORAM:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.8795 of 2013
and
M.P. (MD) Nos.1, 2 & 3 of 2013
and
W.P. (MD) No.3370 of 2013
and
M.P. (MD) No.1 of 2013

M.Manimurugan ... Petitioner in both W.Ps.
vs.

1.The Commissioner
Madurai Corporation
Madurai

2.The Education Officer
Madurai Corporation, Madurai

3.The Head Master
Elango Corporation Hr. Sec. School
Shenoy Nagar, Madurai-20 ... R1 to R3 in both W.Ps.

4.Esther Helan Gnanasundari

5.J.M.Selvi

6.S.Suganthi

7.Puthilipremabai

8.Jesintha Amalarani ... R4 to R8 in W.P. (MD) No.
8795 of 2013

PRAYER (in W.P. (MD) No.8795 of 2013): Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling or the records of the impugned proceedings passed by the 2nd respondent herein in Na.Ka.No.A1/008167/13 dated 16.05.2013 and quash the same and for further direction directing the Respondents 1 to 3 herein to consider and promote the petitioner to the post of P.G.Assistant in any one of the available two vacancies in the Madurai Corporation



Higher Secondary Schools, Madurai within the time stipulated by this Court.

PRAYER (in W.P. (MD) No.3370 of 2013): Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records of the impugned order passed by the 2nd Respondent herein in his proceedings in Na.Ka.No.A1/002953/13 dated 22.02.2013 and quash the same and further direct the 1st and 2nd Respondents herein to consider the petitioner's name for the promotion to the post of P.G.Assistant (Political Science) in Madurai Corporation Higher Secondary School.

For Petitioner : Mr.D.Nallathambi
(in both W.Ps)

For Respondents 1 & R2 : Mr.R.Murali
(in W.P.(MD) No.8795/2013)

For Respondents 3 to 8 : No appearance
(in W.P.(MD) No.8795/2013)

For Respondents 1 to 3 : Mr.R.Murali
(in W.P.(MD) No.3370/2013)

C O M M O N O R D E R

The order impugned in W.P.(MD) No.8795 of 2013, dated 16.05.2013, is nothing but a circular issued by the Education Officer, Madurai Corporation, Madurai / second respondent. The said circular states that the Teachers working in Madurai Corporation Schools are at liberty to submit their objections in respect of the provisional seniority list issued by the authorities on 01.01.2013. In other words, the officials concerned were directed to receive acknowledgment from the Teachers in respect of the provisional seniority list, dated 01.01.2013 and if any objections in respect of the provisional seniority are submitted by the Teachers, then the said objections are to be submitted within a period of seven days from the date of receipt of the circular. On receipt of the objections, the provisional seniority will be considered and accordingly, a final seniority list will be drawn and promotions will be granted.

2. The writ petitioner is working as B.T.Assistant in the third respondent's School. The grievance of the writ petitioner is that he is fully qualified for the post of P.G.Assistant and he was considered for grant of promotion, but his actual promotion was not considered. However, the impugned circular states that the provisional seniority list will be circulated to all the Teachers enabling them to submit their objections, if any, and only after



finalizing the seniority list, promotions will be granted to all the eligible teachers to the post of P.G.Assistant in accordance with the seniority and as per the rules in force.

3. Promotion per se cannot be claimed as a matter of legal right. However, consideration for promotion is a fundamental right of an employee. All employees, who are fully qualified and aspiring to secure promotion, are to be considered for promotion whenever the process of preparation of panel is undertaken. The competent authorities are bound to follow the Promotion Rules in force strictly and by considering all the eligible candidates, who all are waiting for promotion, including the writ petitioner. This being the procedures to be followed, it is made clear whenever a decision is taken at the administrative level to fill-up the post of P.G.Assistant and whenever a decision is taken to prepare the panel for grant of regular promotion, then, the names of all the eligible candidates, including the writ petitioner, are to be considered and accordingly, a panel is to be prepared strictly in accordance with the Promotion Rules in force. It is made clear that the educational qualifications as well as the degrees obtained by the respective candidates are also to be verified as per the Government Orders and as per the Judgments with reference to the U.G.C.Regulations.

4. In respect of W.P.(MD) No.3370 of 2013, the order, dated 22.02.2013, passed by the second respondent, is sought to be quashed. Further direction is sought for to consider the name of the writ petitioner for promotion to the post of P.G.Assistant (Political Science) in Madurai Corporation Higher Secondary Schools.

5. The case of the writ petitioner is that he is fully qualified for promotion to the post of P.G.Assistant. The writ petitioner is working as B.T.Assistant in the third respondent's School. The writ petitioner himself has admitted in Paragraph No.4 of the affidavit that he has completed his under graduation in B.A. (Tamil) on regular basis and completed B.A.(Political Science) in single sitting as approved by the State Government. The writ petitioner passed B.Ed. Degree also. Accordingly, he was promoted to the post of B.T.Assistant. The writ petitioner has completed M.A.(Political Science) Degree, after getting permission from the first respondent. Thus, the writ petitioner claims that he is fully qualified for promotion to the post of P.G.Assistant.

6. The impugned order, dated 22.02.2013, states that the writ petitioner acquired double degree in one academic year. In respect of the candidates, who acquired double degrees is not entitled for promotion, as such degrees are not considered as valid degrees for the purpose of appointments / promotions. However, in respect of the validity of the degree, the authorities competent are empowered to verify the same at the time of grant of appointments / promotions.



7. Teaching is a noble profession. Teachers have to teach the students in classrooms. Imparting education to the students is a skill and an art. Thus, the candidates, who studied in the regular course in regular Colleges, alone must be made eligible for appointment to the teaching post and faculties in colleges. The candidates, who secured double degrees, through correspondence course and open university system, cannot be considered for appointment to the teaching post. The fall of standard in the education system is happening of such appointments made from the candidates, who studied through correspondence course, open university system and double degree system. The Government must be strict in adopting the U.G.C.Regulations in this regard. As far as the teaching post is concerned, the candidates, who studied in the regular course in regular colleges, alone must be considered for appointment and other candidates, who studied through correspondence course, open university system and double degree system, cannot be considered for appointment. Those degrees may be eligible for appointment in ministerial posts. However, the teaching post is concerned, there cannot be any compromise in the matter of prescription of educational qualification and validity of the degrees obtained by the respective candidates under U.G.C.pattern.

8. In the present case on hand, the impugned order, dated 22.02.2013, states that the writ petitioner has acquired double degrees and therefore, he is not entitled for promotion. Under these circumstances, this Court is of the considered opinion that the writ petitioner, who acquired double degrees and seeks promotion to the post of P.G.Assistant, cannot be considered. If at all the writ petitioner studied through regular course in the regular college, then he has to establish the same before the competent authorities for the purpose of considering his case. Under these circumstances, this Court is of the considered opinion that only in the event of establishing that the writ petitioner has secured the educational qualification through regular pattern by studying in the regular college, then alone his case can be considered and not otherwise.

9. With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)



+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-81901[F] dated
16/08/2019)

+1 CC to M/s.R.MURALI, Advocate (SR-82054[F] dated 16/08/2019)

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