



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.14848 of 2014

and

W.M.P(MD)No.4803 of 2017

M.Tamizh Selvan

... Petitioner

Vs

Tamil Nadu Public Service Commission,
Through its Secretary,
No.1, Greams Road,
Chennai-600 006.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order No.4977/OTD-B/2010 dated 27.5.2014 passed by the respondent and quash the same and consequently direct the respondent to appoint the petitioner in any one of the Group II post reserved for the Ex-Serviceman.

For Petitioner : Mr.P.Veerabaku
For Respondent : Mr.K.K.Senthil

ORDER

The order impugned dated 27.05.2014 states that M.A., degree obtained by the writ petitioner through Open University System is an invalid degree and therefore, he cannot be appointed for any post in Group-II services.

2. The writ petitioner joined in the Indian Army on 3.8.1984 and retired from service on 1.9.2008 from the post of Havildar after rendering 24 years of service. The petitioner claims that 15 years services rendered by the petitioner to be equated with the educational qualifications of Graduation. Therefore, the writ petitioner is to be considered for appointment in any of the posts under Group-II services. The writ petitioner after completing SSLC directly obtained a Post Graduate Degree in M.A., through Open University System in Annamalai University. Based on the

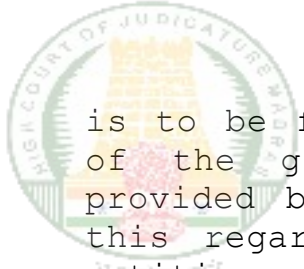


Open University M.A., Degree, the petitioner submitted his application to participate in the process of selection for the Group-II posts and accordingly, he was successful in the written examination. The writ petitioner was provisionally selected and directed to appear in the counselling. During the certificate verification, the competent authorities found that the writ petitioner is possessing master degree, namely, M.A.History through Open University System and accordingly, rejected the candidature of the writ petitioner.

3. The learned counsel for the petitioner strenuously contended that the case of the writ petitioner is to be considered with reference to the instructions issued by the Government of India that 15 years of service is to be taken as equivalent to graduation. Such principle mooted out cannot be accepted in the absence of any specific notification. This apart, the qualification of graduation/under graduation degree cannot be equated with the ex-servicemen service as soldier in Indian Army. If such a policy is adopted, then the same will defeat the very purpose and object of prescribing educational qualification for Group-II service. The duties and responsibilities attached to the post under Group-II services are all important in nature and they have to perform many statutory duties and execution of statutory provisions. Thus, the minimum qualification of graduation prescribed must be strictly followed. In the present case on hand, Open University Degree obtained through Annamalai University has already invalidated by the Hon'ble Supreme Court in the case of **Annamalai University vs. Secy. To Govt. Information and Tourism Department reported in 2009(4) SCC 590**,

4. The Supreme Court of India in an unambiguous terms held that Open University degrees granted by the Annamalai University are in violation of University Grants Commission regulations and therefore, such Open University degrees cannot be considered as a valid degrees for the purpose of public employment in State as well as Union. This being the judgment of Supreme Court, the degree obtained by the writ petitioner through Open University System cannot be considered for the purpose of providing appointment to the post under Group-II services in the Government of Tamil Nadu.

5. The learned counsel for the writ petitioner made a submission that the writ petitioner had served more than 15 years in Indian Army and therefore, he should be given some preference in Government appointment. Undoubtedly, the priority category for ex-servicemen are provided for certain posts by the Government. More specifically, such priority is provided for Group-C and Group-D posts. As far as Group-I and Group-II posts are concerned, the same carries higher responsibilities and more statutory functions. Therefore, minimum qualification prescribed



is to be followed strictly. Under those circumstances, equation of the graduation degree with service experience cannot be provided by the court in the absence of any statutory rules in this regard. Even for group-C and Group-D categories, if the petitioner is qualified in accordance with the rules, then his case is to be considered, if any recruitment notifications are issued.

6. Providing of more priority is undoubtedly undesirable. The fixation of quota if exceeds the same will defeat the equality clause enunciated under Article 14 and 16 of the Constitution of India. In the event of providing more priority to class of people, the scope for merit is minimized and therefore, the very constitutional principles are violated. Therefore, the Government also must be cautious in providing the priority categories to many class of people. Already the rule of reservation of 69% is being followed and in the event of providing more priority category, then there will not be much scope for meritorious candidates to enter into the public service. The writ petitioner having served in the cadre of Havildar, undoubtedly, he will be receiving a decent pension amount. This apart, the writ petitioner is availing various other facilities provided by the Government of India more specifically Ministry of Defence. Therefore, he cannot be a person in penurious circumstances. In this great nation lakh and lakh of young people are longing to secure public employment. Thus, highly educated young people of this great nation are burning their midnight lambs for securing public employment through open competitive process. In the event of providing large scale priority categories including ex-serviceman then the constitutional rights and opportunity of these young people of our great nation are not only affected, but they are deprived of their opportunity. Therefore, the Government of India as well as the State Government is constitutionally duty bound to provide more employment opportunity to the young people of this great nation other than providing more priority to the ex-service man and other persons and they are all already in advantageous position and receiving pension and other facilities. The Directive Principles enumerated in the constitution also states that equal opportunity in public employment and upliftment to downtrodden people are to be effectively implemented by the Union as well as by the State Governments and in the event of not providing such equal opportunity, we are not marching towards the constitutional goals as well as the concepts resolved by the people of India in the Preamble of Constitution of India. Thus the State and Union must ensure that the opportunity of public employment is provided equally to all the persons and providing this priority category to be restricted to the extend possible, so as to provide opportunity to more meritorious candidates for the purpose of delivering services efficiently. An efficient public administration is also a constitutional mandate. Thus recruitment to the public post must be through open competitive process in a



transparent manner and by providing opportunity to meritorious people by following rule of reservation.

7. Under these circumstances, the writ petitioner has not established any case for considering the relief as such sought for in the writ petition and the writ petitioner is not possessing valid degree for the purpose of securing job under Group-II services and therefore, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To
The Secretary, Tamil Nadu Public Service Commission,
No.1, Greams Road,
Chennai-600 006.

+1 CC to Mr.P.VEERABAKU, Advocate SR-73809.
+1 CC to Mr.K.K.SENTHIL, Advocate SR-74034.

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