



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.20087 of 2019

and

W.M.P. (MD) Nos.16624 and 16625 of 2019

S.Nagaraj

... Petitioner

-Vs-

- 1.The Director of Social Welfare,
O/o. The Director of Social Welfare,
Saidapet, Chennai.
 - 2.The Joint Director of Social Welfare (Administration),
O/o. The Joint Director of Social Welfare,
Chennai.
 - 3.The Social Welfare Officer,
O/o. The Social Welfare Officer,
Panagal Maligai, Saidapet, Chennai-15.
 - 4.The District Project Officer,
O/o. The District Project Officer,
Multi Department Complex,
Behind Theni New Bus Stand,
Theni.
 - 5.The Child Development Officer,
O/o. The Child Development Office,
Theni Rural, Theni.
 - 6.The Administrative Officer,
O/o. The Child Development Office,
Theni Rural, Theni District.
- ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the third respondent vide his impugned proceedings ந.க.எண் 10566/நிர் 4(2)/2019, dated 26.06.2019 and the consequential impugned order passed by the third respondent in his proceedings in ந.க.எண்.31911/நிர்.4(1)/2017, dated 30.08.2019 and quash the same as illegal and consequentially to direct the respondents to disburse the retirement benefit of the



interest thereon within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Mohammed Suhaijc
for M/s.Ajmal Associates.

For Respondents : Mr.V.R.Shanmuganathan,
Special Government Pleader.

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ORDER

Heard Mr.M.Mohammed Suhaijc, learned counsel appearing on behalf of the petitioner and Mr.V.R.Shanmuganathan, learned Special Government Pleader, who takes notice on behalf of the respondents.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.The orders dated 26.06.2019 and 30.08.2019 issued by the third respondent, are sought to be quashed in the present Writ Petition and further direction sought for is to direct the respondents to disburse the retirement benefits of the petitioner in the cadre of Junior Assistant along with an accrued interest thereon.

4.According to the petitioner, he was appointed as Office Assistant on 26.11.1987 and he was promoted as Junior Assistant on 01.07.2010. His service was regularized, by the proceedings of the second respondent, dated 20.09.2012. The petitioner retired from service on 28.02.2018, on attaining the age of superannuation.

5.The grievance of the petitioner is that he is not granted with retirement benefits in the cadre of Junior Assistant. A representation of the petitioner, dated 02.04.2019, in this regard was rejected on the ground that pre-foundation course acquired by the petitioner from Madurai Kamaraj University is not equivalent to 10th standard, which is a minimum educational qualification prescribed for appointment to the post of Junior Assistant.

6.The learned counsel appearing for the petitioner contended that as per G.O.Ms.No.528, Personnel and Administrative Reforms (PER.R) Department, dated 18.01.1985, pre-foundation course acquired by the petitioner is equivalent to 10th standard. Only after his promotion as Junior Assistant on 01.07.2010, the Government Order in G.O.Ms.No.144, dated 20.11.2017, was issued, stating that pre-foundation course is not equivalent to the 10th standard. The said G.O.Ms.No.144 is applicable prospectively. The third respondent, by the proceedings dated 18.01.2018, held that the effect of G.O.Ms.No.144, will not stand in the way of existing employees. In view of the above facts, the impugned orders of the third respondent, are invalid and prayed for allowing this Writ Petition.



7.The learned Special Government Pleader appearing for the respondents submitted that minimum qualification prescribed for appointment to the post of Junior Assistant is 10th standard. The petitioner is not possessing 10th standard. The qualification obtained by the petitioner is not equivalent to 10th standard. The promotion of the petitioner to the post of Junior Assistant is irregular and hence, he is not entitled for the retirement benefits in the cadre of Junior Assistant and prayed for dismissal of the Writ Petition.

8.From the materials on record, it is seen that the petitioner was promoted as Junior Assistant on 01.07.2010 from the post of Office Assistant. At the time of such promotion, the petitioner was possessing pre-foundation course certificate issued by the Madurai Kamaraj University. As per G.O.Ms.No.528, dated 18.01.1985, the said certificate is equivalent to 10th standard. Only after the petitioner was promoted as Junior Assistant and after 7 years of his service as Junior Assistant, G.O.Ms.No.144, dated 20.11.2017, was issued, stating that pre-foundation course certificate is not equivalent to 10th standard. Reiterating the said Government Order, the third respondent has rejected the request of the petitioner, seeking for terminal benefits. The reasons given by the third respondent are not valid and the third respondent himself, by the proceedings dated 18.01.2018, has clarified that the said Government Order will not stand in the way of existing employees.

9.For the above reasons, the impugned orders of third respondent, dated 26.06.2019 and 30.08.2019 are quashed. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

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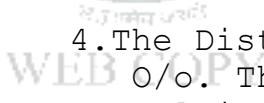
Sub Assistant Registrar(CS)

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To

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Saidapet, Chennai.

2.The Joint Director of Social Welfare (Administration),
O/o. The Joint Director of Social Welfare,
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