



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2019

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.11606 of 2014

and

M.P (MD) NO.1 of 2014

WEB COPY

A.Appana Samy

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by Principal Secretary,
Higher Education (C1) Department,
Secretariat,
Fort St. George,
Chennai-9.

2.The Commissioner of Technical Education,
Director of Technical Education,
Guindy, Chennai-25.

3.The Principal,
VSVN Poly Technic College,
Virudhunagar,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Letter.No.65621/C1/2010 dated 18.10.2012 on the file of Respondent No.2 and quash the same as illegal and consequently direct the Respondent No.1 to 2 to provide Promotion to the petitioner in the Post of Head of Department notionally with effect from 26.11.2010 along with consequential monetary benefit and arrears within the time period.

For Petitioner: Mr.T.Lajapathi Roy

For R1 & R2 : Mr.M.Jeyakumar

Additional Government Pleader

For R3 : Mr.P.Chandra Bose

ORDER

The relief sought for in the present writ petition is to quash the order dated 18.10.2012 in respect of the claim of the writ

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petitioner for promotion to the post of Head of the Department as well as to direct the respondents to promote the writ petitioner as Head of the Department notionally.

2. The writ petitioner filed the present writ petition after reaching the age of superannuation. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was fully qualified for promotion to the post of Head of the Department during the relevant point of time and the Staff Selection Committee also passed a resolution to that effect. However, the writ petitioner was not promoted on account of the fact that the Government issued G.O.Ms.No.563, Higher Education Department, dated 31.12.2004. Accordingly, a person should possess Ph.d., degree for appointment as Head of the Department in non-engineering subject. Admittedly, during the relevant point of time, the writ petitioner was not possessing the Ph.d., degree.

3. The learned counsel for the writ petitioner states that as per G.O., the said qualification of Ph.d., cannot be applied with retrospective effect so as to affect the promotions of the writ petitioner to the post of Head of the Department.

4. The learned Additional Government Pleader cited the judgment of the Hon'ble Supreme Court of India in State of Madhya Pradesh vs. Manoj Sharma reported in (2018) 3 Supreme Court Cases 329 and the relevant paragraphs are extracted hereunder:-

"15.As noted above, the above mentioned regulations were amended and amendments dated 11.7.2009 were relevant whereas the note as contained in Regulation 1.3.3 was substituted by the following:

"NET/SLET shall remain the minimum eligibility condition for recruitment and appointment of Lecturers in Universities/Colleges/Institutions.

Provided, however, that candidates, who are or have been awarded PhD degree in compliance of the "University Grants Commission (Minimum Standards and Procedure for Award of PhD degree), Regulations, 2009, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET for recruitment and appointment of Assistant Professor or equivalent positions in universities/colleges/institutions."

16.It has to be noticed that the amendment as made in the minimum qualification, now provides that the exemption from NET shall be given to the PhD degree-holders, only when PhD degree has been awarded to them in compliance with the 2009 Regulations of UGC (Minimum Standards and Procedure). The above provision thus, made

it is to be noted that for Lecturers NET qualification is



necessary and exemption shall be granted to those PhD degree-holders who have obtained PhD degree in accordance with the 2009 Regulations of UGC (Minimum Standards and Procedure). The purpose and object of the above amendments in both the 2009 Regulations of UGC (Minimum Standards and Procedure) as well as the 2009 Regulations of UGC (Minimum Qualifications of Appointment) is not far to seek. There has been challenge to amendments made in the 2009 Regulations of UGC (Minimum Qualifications for Appointments) insofar as it denied the benefit of PhD degree-holders who had obtained PhD prior to 11.7.2009. The writ petitions were filed in different High Courts Challenging the Regulations on different grounds including that the Regulations are arbitrary and violative of Article 14 which discriminate the PhD degree-holders who have obtained PhD degree prior to 11.7.2009 and those who obtained the degree after 11.7.2009 in accordance with the 2009 Regulations of UGC (Minimum Standards and Procedure)."

5. The amendment to the University Grants Commission regulations were made on 11.07.2019. In the present case on hand, the staff selection committee considered the case of the writ petitioner on 26.11.2010. Thus, the selection was proposed after issuance of the amendment and therefore, the case of the writ petitioner squarely falls within the principles laid down by the Supreme Court as well as the amendments issued by the University Grants Commission. In view of the fact that the writ petitioner was not possessing the Ph.d., degree during the relevant point of time and now, after retirement he cannot seek any retrospective promotion so as to get notional promotion as well as the monetary benefits.

6. Thus, the writ petitioner has not established any acceptable legal grounds for the purpose of considering the relief as such sought for in the present writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar (CS)



1. The State Principal Secretary,
Higher Education (C1) Department,
Secretariat,
Fort St. George,
Chennai-9.

2. The Commissioner of Technical Education,
Director of Technical Education,
Guindy, Chennai-25.

+1 CC to M/s.P.CHANDRA BOSS, Advocate (SR-84145[F] dated
29/08/2019)

+1 CC to M/s.SPL GP (SR-84557[F] dated 30/08/2019)

+1 CC to M/s.T. LAJAPATHIROY, Advocate (SR-84819[F] dated
03/09/2019)

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