



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. (MD) No. 19398 of 2015

and

M.P. (MD) No. 1 of 2015

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I. Xavier

... Petitioner

-Vs-

1. The Director of School Education,
DPI Campus, College Road, Chennai-600 006.

2. The Joint Director of School Education (Personnel),
DPI Campus, College Road, Chennai-600 006.

3. The Chief Educational Officer,
Thanjavur District, Thanjavur.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to consider the representation submitted by the petitioner dated 24.10.2015 and to include the name of the petitioner in the panel for promotion to the post of B.T. Assistant (Social Science) issued by the second respondent published in the Official Website on 20.10.2015 and consequently promote the petitioner to the post of B.T. Assistant (Social Science) retrospectively on par with the petitioner's juniors with consequential and other attendant benefits including arrears of salary.

For Petitioner

: Mr. G. Sankaran

For Respondents

: Mrs. S. Srimathy,

Special Government Pleader.

ORDER

The relief sought for in the present Writ Petition is for a direction to direct the respondents to consider the representation submitted by the writ petitioner on 24.10.2015 and include the name of the writ petitioner in the panel for promotion to the post of B.T. Assistant (Social Science) issued by the second respondent on 20.10.2015.

2. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is now working as Secondary Grade Assistant in the Government Higher Secondary School. The writ petitioner after joining into the service, studied M.A., (History) through Madurai Kamaraj University in the year 2006 and thereafter, passed B.Ed., from Sasthra University in



the year 2009. After completion of M.A., and B.Ed., the writ petitioner again passed B.A., (History) in the year 2012. Based on the said degrees, the writ petitioner claims that he is fully qualified for promotion to the post of B.T. Assistant (Social Science) by way of promotion.

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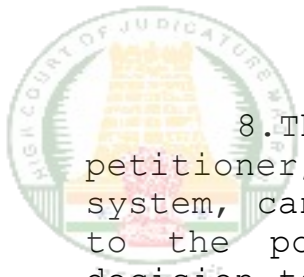
3. For appointments as well as for promotion, the employer must consider whether the candidate is possessing valid educational qualifications or not. Open University degrees are declared as invalid by the Hon'ble Supreme Court of India in the case of **Annamalai University Vs. The Secretary to the Government, Information and Tourism Department and others** reported in (2009) 4 SCC 590. Thus, the degree obtained through open university system, cannot be considered as valid degree for the purpose of providing appointment as well as promotion.

4. In the present case, admittedly, the writ petitioner has not undergone studies as per the educational pattern as per the University Grants Commission's regulations and a candidate, who had undergone regular pattern of education of 10+2+3+2, alone is eligible for appointment to the teaching posts.

5. This apart, this Court has reiterated in number of decisions that for teaching posts / teaching faculties, the persons, who have studied through correspondence courses, should not be appointed. The candidates, who studied in regular pattern of education in regular courses by attending colleges, alone should be appointed for the purpose of taking classes. The candidates, who studied through open university system without even attending regular classes, cannot be considered for appointment of public posts.

6. This being the basic concept for appointment of teachers in school and colleges, this Court is of the considered opinion that open university degree obtained by the writ petitioner cannot be considered as valid degree for the purpose of granting promotion.

7. Even this Court as well as the Hon'ble Apex Court in many decisions held that it is not as if the Government should develop infrastructure facilities and other facilities in the schools, equally the Government should consider the appointment of qualified and meritorious teachers for the purpose of imparting better education to the students and the Government should concentrate the appointments to be made in Government schools as well as in colleges. It is not sufficient that the Government provides best infrastructure facilities, equally it is important to appoint more meritorious and qualified teachers for the purpose of imparting better education to the students, who are studying in schools and colleges.



8.This being the principles to be followed, the writ petitioner, who had undergone the degree through open university system, cannot be considered for the purpose of granting promotion to the post of B.T. Assistant (Social Science). Thus, the decision taken by the competent authorities are in consonance with the legal principles settled and there is no infirm. However, it is made clear that whatever the eligible benefits, in which the writ petitioner is entitled, the same may be granted to the writ petitioner in accordance with the rules in force.

9.With these observations, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.S)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.

2.The Joint Director of School Education (Personnel),
DPI Campus, College Road,
Chennai-600 006.

3.The Chief Educational Officer,
Thanjavur District, Thanjavur.

+1 CC to Mr.F.DEEPAK, Advocate SR-75496.

+1 CC to SPL GP SR-75749.

W.P (MD) No.19398 of 2015

CS (26.07.2019) 3P 6C