



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.8598 of 2012

and

M.P. (MD)Nos.2 and 3 of 2012

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S.Baskaran

... Petitioner

Vs.

1.The Joint Director,
Kallar Reclamation,
Madurai.

2.K.Selvi,
Government Kallar Middle School,
A.Puthupatti, Usilampatti, Madurai.

3.C.Nirmala,
Government Kallar Higher Secondary School,
Vikkiramangalam,
Theni District.

4.K.Malathi,
Government Kallar Higher Secondary School,
Anaipatti,
Theni District.

5.R.Sivakumar,
Government Kallar Higher Secondary School,
Vadakkampatti,
Theni District.

6.M.Selvarajan,
Government Kallar Middle School,
Keeripatti,
Usilampatti Union,
Madurai District.

7.S.Santhi,
Government Kallar Middle School,
Panniyan,
Chekkanurani Union,
Theni District.

8.M.Manikandan,
Government Kallar Elementary School,
Muthupandipatti,
Usilampatti Union,
Madurai District.



9.V.Ganesan,
Government Kallar Middle School,
Kathirnarasingapuram,
Periyakulam Union,
Theni District.

... Respondents

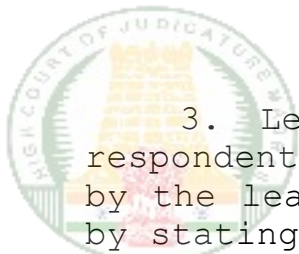
PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the panel issued by the first respondent as on 01.03.2011 inclusion of the respondents 2 to 9 for the post of B.T. Assistant (English) and the consequential order of promotion given to the respondents 2 to 4 in his proceedings Na.Ka.No.H3/95333/2011-5, dated 18.02.2012, Na.Ka.No.H3/95333/2011-7, dated 18.02.2012 and quash the same and direct the first respondent to promote the petitioner as B.T.Assistant (English) from the date on which the promotion was given to the respondents 2 to 4 ie., 18.02.2012 and confer all the consequential benefits.

For Petitioner : Mr.V.Panneerselvam
for M/s C.S.Associates
For Respondents : Mrs.S.Srimathy
Special Government Pleader
for R.1
For Respondents
Nos.2 to 6 :Mr.A.Thirumurthy
For Respondents
Nos.7&8 :No Appearance

ORDER

The writ petition is filed challenging the panel issued by the first respondent released for promotion to the post of B.T. Assistant (English) and the consequential orders of promotion issued by the first respondent promoting the respondents 2 to 9 are sought to be quashed. Further direction is sought for to promote the petitioner as B.T. Assistant (English) from the date on which, the respondents 2 to 9 were promoted.

2. The main contention of the writ petitioner is that the respondents 2 to 9 were promoted to the post of B.T. Assistant (English) based on one year degree obtained by them. The one year degree granted by any University is invalid and in violation of University Grants Commission (in short "UGC") regulations. The one year B.A. English degree has not been approved by the UGC. Therefore, the promotion to the respondents 2 to 9 are illegal and in violation of the UGC regulations as well as the judgment of the Honourable Supreme Court of India in **Annamalai University represented by its Registrar Vs. the Secretary to Government, Information and Tourism Department, Chennai**, reported in (2009)4

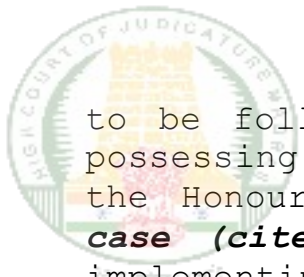


3. Learned Counsel appearing on behalf of the contesting respondents 2 to 9 strenuously opposed the contentions put forth by the learned Counsel appearing on behalf of the writ petitioner by stating that the respondents 2 to 9 are fully qualified for the promotion to the post of B.T. Assistant (English). They have undergone the regular pattern of education of SSLC, +2 and three years degree. Thereafter they have studied one year degree in English course. The said one year English course is an additional degree and based on such a qualification, the respondents 2 to 9 were promoted to the post of B.T. Assistant (English) and therefore, the writ petition is liable to be dismissed.

4. It is contended that the respondents 2 to 9 were promoted prior to the issuance of the Government Order and the appointments/promotions already made are protected and therefore, the promotions already granted in favour of the respondents 2 to 9 deserve no interference at all.

5. Learned Counsel appearing on behalf of the respondents 2 to 9 is mainly on the opinion that if one year English degree course is held invalid, subsequently the said possession would not affect the right of the respondents 2 to 9 in view of the fact they were promoted prior to the issuance of the Government Order. In support of the said contention, he cited a judgment of the Honourable Division Bench of this Court. However there is no dispute with reference to the promotions already made prior to the judgment of the Honourable Supreme Court of India in the case of **Annamalai University (cited supra)**. The Honourable Supreme Court itself protected the appointments already made and further, the Honourable Supreme Court held that the Open University Degrees are invalid and emphasized to the importance of the UGC regulations in the matter of awarding degrees by various Universities across the Country.

6. In the **Annamalai University case** reported in **(2009)4 SCC 590**, the Honourable Supreme Court in clear terms held that the degree granted by any University in violation of UGC Act and UGC regulations cannot be held as a valid degree. The Universities are bound to award degree only if such degrees are approved by the UGC. With reference to the Open University degree, the Honourable Supreme Court held that such degrees are invalid. The three years degree course cannot be conducted in one year. Thus, one year B.A. Degree course in English has not been approved by the UGC in its regulations. The UGC approved the three years degree course in English in a regular curriculum and the Universities across the Country are bound to award degree only as per the regulations issued by the UGC. Any other degrees granted in violation of the UGC cannot be considered as a valid degree for the purpose of appointments/promotions. This being the legal principles



to be followed to find out whether the respondents 2 to 9 are possessing valid educational qualifications as per the judgment of the Honourable Supreme Court of India in **Annamalai University case (cited supra)** and the subsequent Government Orders passed implementing the judgment of the Honourable Supreme Court of India. All such Government Orders are to be considered before granting any promotion or making appointments. There cannot be any compromise in the matter of educational qualifications more specifically for teachers. All appointments to be made strictly in accordance with the rules in force. In the event of compromising the educational qualifications, undoubtedly the quality of education would be deride. Thus the authorities competent are bound to verify the educational qualifications of the teachers who are all seeking appointment or aspiring for promotion and thereafter, pass appropriate orders.

7. In the present writ petition, allegations and counter allegations are made. However, this Court, in this writ petition cannot conduct an enquiry, so as to verify the correctness of the educational qualifications. Such an enquiry is to be conducted by the competent authorities by verifying the original educational qualifications possessed by all concerned. Under these circumstances, this Court is of the considered opinion that the present writ petition is a fit case to remand the matter, so as to conduct a fresh enquiry regarding the educational qualifications with reference to the judgment of the Honourable Supreme Court of India in **Annamalai University case (cited supra)** and the Government Orders passed regarding the educational qualifications. Accordingly, the impugned orders passed by the first respondent in his proceedings Na.Ka.No.H3/95333/2011-5, dated 18.02.2012, Na.Ka.No.H3/95333/2011-7, dated 18.02.2012 are quashed and the first respondent is directed to conduct a detailed enquiry with reference to the qualifications, eligibility and other details of all the candidates and accordingly pass appropriate speaking orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. Accordingly, the writ petition stands allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar (CS)



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To
The Joint Director,
Kallar Reclamation,
Madurai.

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+1 CC to Mr.A. THIRUMURTHY, Advocate (SR-19212[F] dated
06/10/2020)

W.P. (MD) No.8598 of 2012

and

M.P. (MD) Nos.2 and 3 of 2012

05.10.2020

SCR(CO)

KM (12.10.2020) 5P 3C