



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY W.P.(MD)Nos.5161, 7421 to 7425 and 10216 of 2013

and

M.P(MD) .Nos.3,4,1,2,1,2,1,2,1,2,1,2 and 2 of 2013

1. S.R. Krishnakumar, Accounts Supervisor, Madurai Electricity Distribution Circle/metro, Madurai
2. G. Sundaramurthy, Accounts Supervisor, Office of the Director / Coal, TANGEDCO, 144, Anna Salai, Chennai-2
3. S. Kailasamurthy, Accounts Supervisor, Gobi Electricity Distribution Circle, Gobi.
4. S. Shakila, Accounts Supervisor, Office of the Chief Finance Controller General, Thiruvannamalai Electricity Distribution Circle, TANGEDCO, 144, Anna Salai, Chennai-2.
5. K.Sellappan Accounts Supervisor, Gobi Electricity Distribution Circle, Gobi
6. A.Vadamalai Accounts Supervisor, Power Purchase, TANGEDCO, 144, Annasalai, Chennai-2.

... Petitioners in WP(MD). 5161/ 2013

1. A. Jeyaraj, S/o. D. Alex, No.1/9, Keela Alangara Thattu, Thoothukudi - 628 002, Thoothukudi District.

... Petitioner in WP(MD). 7421/ 2013

1. A. Jeyaraj, S/o. D. Alex, No.1/9, Keela Alangara Thattu, Thoothukudi - 628 002, Thoothukudi District.

... Petitioner in WP(MD). 7422/ 2013

1. M.Rajendran S/o. M.Moorthy, No.7 , Upstairs, Melaponnagaram, 8th Street, Arappalayam, Madurai 16, Madurai District

... Petitioner in WP(MD). 7423/ 2013

1. M. Rajendran, S/o. M. Moorthy, No.7 Upstairs, Melaponnagaram, 8th Street, Arappalayam, Madurai - 625 016, Madurai District.

... Petitioner in WP(MD). 7424/ 2013

1. G.Krishnan S/o.M.Gurusamy, No.889c, 29th Street, Rahmath Nagar, Palayamkottai, Tirunelveli, Tirunelveli District

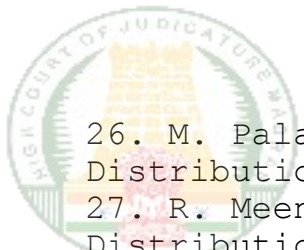
... Petitioner in WP(MD). 7425/ 2013

1. A. Jeyaraj, S/o.D. Alex, No.1/9, Keela Alangara Thattu, Thoothukudi - 2, Thoothukudi District.

... Petitioner in WP(MD). 10216/ 2013



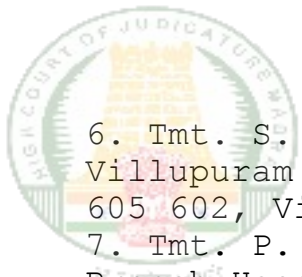
1. State of Tamil Nadu, Rep. by Secretary to Government, Energy Department, Secretariat, Fort St. George, Chennai.
2. The Secretary to Government, P & AR Department, Secretariat, Fort St. George, Chennai-9.
3. The Chairman, TANGEDCO, 8th Floor N.P.K.R.R. Maaligai, 144, Anna Salai, Chennai.
4. The Chief Engineer(Personnel),, TANGEDCO, 8th Floor N.P.K.R.R. Maaligai, 144, Anna Salai, Chennai.
5. V. Tamilarasi, Accounts Supervisor, Trichy Electricity Distribution Circle/metro, Trichy.
6. M. Chandrasekaran, Accounts Supervisor, Mettur Electricity Distribution Circle, Mettur.
7. V. Amudhavalli, Accounts Supervisor, Chennai Electricity Distribution Circle South, Chennai.
8. R. Krishnaveni, Accounts Supervisor, Namakkal Electricity Distribution Circle, Namakkal.
9. D. Valarmathi, Accounts Supervisor, Mettur Electricity Distribution Circle, Mettur.
10. S. Ushadevi, Accounts Supervisor, Virudhunagar Electricity Distribution Circle, Virudhunagar.
11. P.V. Pankajavalli, Accounts Supervisor, Cuddalore Electricity Distribution Circle, Cuddalore.
12. V. Natarajan, Accounts Supervisor, Mettur Electricity Distribution Circle, Mettur.
13. N. Kayalvizhi, Accounts Supervisor, P & C/pasumalai, Madurai.
14. P.T. Jagadambal, Accounts Supervisor, Udumalpettai Electricity Distribution Circle, Udumalpet.
15. A. Kumari, Accounts Supervisor, Thiruvannamalai Electricity Distribution Circle, Thiruvannamalai.
16. N. Ramachandran, Accounts Supervisor, Tirunelveli Electricity Distribution Circle, Tirunelveli.
17. P. Kamatchi, Accounts Supervisor, Trichy Electricity Distribution Circle/metro, Trichy.
18. P. Vijayalakshmi, Accounts Supervisor, Trichy Electricity Distribution Circle/metro, Trichy.
19. S.R. Sundari, Accounts Supervisor, Mettur Electricity Distribution Circle, Mettur.
20. P. Tamilarasi, Accounts Supervisor, Salem Electricity Distribution Circle, Salem.
21. R. Vijayalakshmi, Accounts Supervisor, Cuddalore Electricity Distribution Circle, Cuddalore.
22. L. Parvathi Swaminathan, Accounts Supervisor, Kanyakumari Electricity Distribution Circle, Kanyakumari.
23. C. Vasuki, Accounts Supervisor, Madurai Electricity Distribution Circle/metro, Madurai.
24. S. Mangayarkarsi, Accounts Supervisor, Tirupur Electricity Distribution Circle, Tirupur.
25. V. Nirmalkumar, Accounts Supervisor, Thanjavur Electricity Distribution Circle, Thanjavur.



26. M. Palanisamy, Accounts Supervisor, Mettur Electricity Distribution Circle, Mettur.
27. R. Meenakshi, Accounts Supervisor, Mettur Electricity Distribution Circle, Mettur.
28. P. Sekar, Accounts Supervisor, Vellore Electricity Distribution Circle, Vellore.
29. S. Pushpalatha, Accounts Supervisor, Thiruvannamalai Electricity Distribution Circle, Thiruvannamalai.
30. K. Velmurugan, Accounts Supervisor, Virudhunagar Electricity Distribution Circle, Virudhunagar.
31. T. Pushpa, Accounts Supervisor, Dharmapuri Electricity Distribution Circle, Dharmapuri.
32. R. Megala, Accounts Supervisor, Trichy Electricity Distribution Circle, Trichy.
33. P. Kasturibai, Accounts Supervisor, Nagai Electricity Distribution Circle, Nagai.
34. R. Arulmozhi, Accounts Supervisor, Thiruvannamalai Electricity Distribution Circle, Thiruvannamalai.
35. D. Sureshbabu, Accounts Supervisor, E.T.P.S, Ennore.
36. P. Selvam, Accounts Supervisor, Villupuram Electricity Distribution Circle, Villupuram.
37. K. Manimegalai, Accounts Supervisor, Madurai Electricity Distribution Circle/Metro, Madurai.
38. J. Madalaisamy, Accounts Supervisor, Gobi Electricity Distribution Circle, Gobi.
39. S. Bhuvaneswari, Accounts Supervisor, Dindigul Electricity Distribution Circle, Dindigul.
40. T. Amutha, Accounts Supervisor, Erode Electricity Distribution Circle, Erode .
41. I. Domnic Xavier, Accounts Supervisor, Villupuram Electricity Distribution Circle, Villupuram .
42. V. Ravindran, Accounts Supervisor, Udumalpet Electricity Distribution Circle, Udumalpet .
43. R. Pattu, Accounts Supervisor, Madurai Electricity Distribution Circle/Metro, Madurai.

... Respondents in WP(MD). 5161/ 2013

1. Tamilnadu Electricity Board Limited and Other Corporate Entities, Rep by its Chairman Cum Managing Director, No.144, Anna Salai, Chennai - 600 002.
2. The Secretary, Secretariat Branch, TANGEDCO, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.
3. The Chief Internal Audit Officer, Audit Branch, TANGEDCO, 1st Floor, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.
4. The Chief Engineer(Personnel),, Administrative Branch, TANGEDCO, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.
5. Tmt. N. Vizia, Assistant Audit Officer, F.11 Section, Audit Branch Head Quarters, TANGEDCO,/TNEB Ltd., No.144, Anna Salai, Chennai - 600 002.



6. Tmt. S. Amutha, Assistant Audit Officer, Regional Office, Villupuram Region, Audit Branch, TANGEDCO/TNEB Ltd., Villupuram - 605 602, Villupuram District.
7. Tmt. P. Nappinai, Assistant Audit Officer, F.40 Section, Audit Branch Head Quarters, TANGEDCO,/TNEB Ltd., No.144, Anna Salai, Chennai - 600 002.
8. Tmt. M. Santhi, Assistant Audit Officer, Concurrent Audit Party, North Chennai Thermal Power Station, TANGEDCO,/TNEB Ltd., North Chennai, Chennai District.

... Respondents in WP(MD). 7421/ 2013

1. Tamilnadu Electricity Board Limited and Other Corporate Entities, Rep by its Chairman Cum Managing Director, No.144, Anna Salai, Chennai - 600 002.
2. The Secretary, Secretariat Branch, TANGEDCO, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.
3. The Chief Internal Audit Officer, Audit Branch, TANGEDCO, 1st Floor, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.
4. The Chief Engineer(Personnel),, Administrative Branch, TANGEDCO, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.
5. Tmt. S. Parimaladevi Deputy Chief Internal Audit Officer, Audit Branch, Madurai Region, TANGEDCO,/TNEB Ltd., K. Pudur, Madurai - 625 007, Madurai District.

... Respondents in WP(MD). 7422/ 2013

1. Tamilnadu Electricity Board Limited and Other Corporate Entities, Rep by its Chairman Cum Managing Director, No.144, Anna Salai, Chennai - 600 002.
2. The Secretary, Secretariat Branch, TANGEDCO, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.
3. The Chief Internal Audit Officer, Audit Branch, TANGEDCO, 1st Floor, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.
4. The Chief Engineer(Personnel),, Administrative Branch, TANGEDCO, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.
5. M.Retna Bai, Internal Audit Officer (Pension) Audit Branch, TANGEDCO /TNEB Ltd., I Floor, N.P.K.K.R. Maligai, No.144, Anna Salai, Chennai 2

... Respondents in WP(MD). 7423/ 2013

1. Tamilnadu Electricity Board Limited and Other Corporate Entities, Rep by its Chairman Cum Managing Director, No.144, Anna Salai, Chennai - 600 002.
2. The Secretary, Secretariat Branch, TANGEDCO, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.
3. The Chief Internal Audit Officer, Audit Branch, TANGEDCO, 1st Floor, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.
4. The Chief Engineer(Personnel),, Administrative Branch, TANGEDCO, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.



5. Tmt. P. Kanagarathinam Assistant Audit Officer, Office of Deputy Chief Internal Audit Officer, Audit Branch, TANGEDCO,/TNEB Ltd., Tatabad, Coimbatore District.

6. Mr. S. Jeyachandran, Assistant Audit Officer, Office of Deputy Chief Internal Audit Officer, Audit Branch, TANGEDCO,/TNEB Ltd., Maharaja Nagar, Tirunelveli District.

... Respondents in WP(MD). 7424/ 2013

1. Tamilnadu Electricity Board Limited and Other Corporate Entities, Rep by its Chairman Cum Managing Director, No.144, Anna Salai, Chennai - 600 002.

2. The Secretary, Secretariat Branch, TANGEDCO, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.

3. The Chief Internal Audit Officer, Audit Branch, TANGEDCO, 1st Floor, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.

4. The Chief Engineer(Personnel),, Administrative Branch, TANGEDCO, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai - 600 002.

5. K.Rajalakshmi Interinal Audit Officer, Concurrent Audit Party, Mettur Thermal Power Station, Erode Region, TANGEDCO/TNEB Ltd., Mettur Dam, Erode District

... Respondents in WP(MD). 7425/ 2013

1. Tamilnadu Electricity Board Ltd. and Other Corporate Entities, Rep. by its Chairman Cum Managing Director, 144, Anna Salai, Chennai.

2. The Secretary, Secretariate Branch, TANGEDCO, N.P.K.R.R. Maligai, No.144, Anna Salai, Chennai -2.

3. The Chief Internal Audit Officer, Audit Branch, 1st Floor, N.P.K.R.R. Maligai, 144 Anna Salai, Chennai-2.

4. The Chief Engineer (Prsonnel),
Adminsitratve Branch, TANGEDCO, N.P.K.R.R. Maligai, 144 Anna Salai, Chennai-2.

5. P. Sundaramoorthy, Assistant Audit Officer, Villupuram Region, Audit Branch, Tanged Co/TNEB Ltd., Old Power House Road, Villupuram, Villupuram District.

... Respondents in WP(MD). 10216/ 2013

Prayer in WP(MD). 5161/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceeding No.(Per.) CMD TANGEDCO Proceedings No.29 dated 23.03.2013 issued by the 4th Respondent and Quash the same in so far as the Respondents 5 to 43 are concerned and consequently direct the Respondents to prepare panel for promotion to the post of Assistant Accounts Officer as on 25.03.2011 following (Per) FB TANGEDCO No.5 dated 08.04.2011 by including the Petitioners with consequential promotion to the post of Assistant Accounts Officer within the time frame to be fixed by this Hon'ble Court.



Prayer in WP(MD). 7421/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court TO issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Panel in (Per)CMD, TANDGEDCO, Proceeding No.2, (Audit Branch) dated 28.03.2013 and the consequential order of promotion in Office Order No.427/F.1/F.12/2013, dated 28.03.2013 on the file of the Respondents No. 2 and 3 and quash the same as illegal to the extent of promoting the Respondents No.5 to 8 as Assistant Audit Officers and consequently to direct the Respondent No.3 to promote the candidates including the petitioner strictly following the TNEB Service Regulations prescribing necessary qualifications with the time stipulated by this Hon'ble Court.

Prayer in WP(MD). 7422/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court TO issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Order in (Per)CMD, TANGEDCO, Proceeding No.104, (Secretariat Branch) dated 06.04.2013 on the file of the Respondents No. 2 and quash the same as illegal to the extent of promoting the Respondents No.5 to the post of Deputy Chief Internal Audit Officer and consequently to direct the Respondent No.2 to promote the candidates including the petitioner strictly following the TNEB Service Regulations prescribing necessary qualifications with the time stipulated by this Hon'ble Court.

Prayer in WP(MD). 7423/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court TO issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned order in Office Order NO. 546/F.1/F.12/2013, dated 02.04.2013 and the consequential order of promotion in Office Order No. 571/F.1/F.12/2013, dated 08.04.2013 on the file of the Respondent No.3 and quash the same as illegal to the extent of promoting the Respondent No.5 to the post of Internal Audit Officer and consequently to direct the Respondent No.3 to promote the candidates including the petitioner strictly following the TNEB Service Regulations prescribing necessary qualifications within the time stipulated by this Honourable Court.

Prayer in WP(MD). 7424/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court TO issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Order in (Per)CMD, TANDGEDCO, Proceeding No.5, (Audit Branch) dated 14.11.2011 on the file of the Respondents No. 2 and quash the same as illegal to the extent of promoting the Respondents No.5 and 6 as Assistant Audit Officers and consequently to direct



the Respondent No.2 to promote the candidates including the petitioner strictly following the TNEB Service Regulations prescribing necessary qualifications with the time stipulated by this Hon'ble Court.

Prayer in WP(MD). 7425/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court TO issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Office No. 582/F.1/F.12/2013, dated 12.04.2013 on the file of the Respondent No.3 and quash the same as illegal to the extent of promoting the Respondents No.5 as Internal Audit Officer and consequently to direct the Respondent NO.3 to promote the candidates including the petitioner strictly following the TNEB Service Regulations prescribing necessary qualifications with the time stipulated by this Hon'ble Court.

Prayer in WP(MD). 10216/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Panel of Assistant Audit Officers eligible for appointment as Internal Audit Officers in Audit Branch in the year 2013-14 in (per) CMD TANGEDCO proceeding No.1 (Audit Branch) dated 28.03.2013 on the file of the Respondent No.2 and quash the same as illegal to the extent of including the Respondent No.5 in the impugned panel for promotion to the post of Internal Audit Officer and consequently to direct the Respondent No.3 to promote the candidates including the petitioner strictly following the TNEB Service Regulations prescribing necessary within the time stipulated by this Hon'ble Court.

For Petitioners
WP(MD)No.5161 of 2013 : Mr.G.Sankaran

For Petitioners
WP(MD)No.7421 to 7425/13
and 10216 of 2013 : Mr.T.Lajapathi Roy

For Respondents
R1 to R4 in : Mr.Karthik Rajan
all WPs Sr.Standing Counsel,
for Mr.T.Sakthi Kumaran

For Respondents : Mr.R.VijayaKumar
R5 to R8 in
WP(MD)No.7421/2013
R5 in WP(MD)No.7422/2013



COMMON ORDER

The panel approved for promotion to the post of Assistant Account Officers/Assistant Audit Officers, in proceedings, dated 23.03.2013, is under challenge in these writ petitions.

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2.The petitioners are working as Accounts Supervisor in the Tamil Nadu General Distribution Corporation Ltd., (TANGEDCO) and the next avenue of promotion to the post is, Assistant Accounts Officers/Assistant Audit Officers. The petitioners have either passed the Departmental Test of Accountancy Higher Grade or qualified with B.Com., and thereby they are exempted from passing Departmental Test, as per the Board proceedings.

3.The learned counsel appearing for the writ petitioners made a submission that exemptions were already granted and therefore, the petitioners are entitled for further promotion to the post of Assistant Accounts Officers/Assistant Audit Officers. The petitioners are fully qualified for promotion in accordance with the Board proceedings and therefore, the question of verification of Degree qualification does not arise at all. The Degree qualification is not at all required for the promotional post and therefore, the cases of the petitioners are to be considered for further promotion to the post of Assistant Accounts Officers/Assistant Audit Officers.

4.It is contended that preparing the panel, without considering the names of the petitioners are arbitrary and the respondents 5 to 43, who are qualified with B.com., and M.com., through Open University, without undergoing +2 or basic degree and therefore, they are not eligible for promotion, as per the orders passed by the State Government in G.O.Ms.No.107, 18.08.2009 and G.O.Ms.No.116, dated 18.08.2010, which were adopted by the TANGEDGO Board Proceedings No.5, dated 08.04.2011. The respondents 5 to 43 cannot claim any exemption from passing Departmental Test, based on the degree qualification acquired through Open University without undergoing the regular approved pattern of education 10 +2 +3. Initially, the names of the respondents 5 to 43 were excluded and subsequently, for the reasons not known to the petitioners, their names had been included in the impugned approved panel list, dated 23.03.2013, based on the invalid degree obtained by them through Open University. Thus, the impugned order is against the Government Orders and in violation of the Government Orders as well as the Board Proceedings No.5, dated 08.04.2011.

5.The learned counsel appearing on behalf of the petitioners reiterated that the respondents/TANGEDGO has created a confusion by not adhering the Board proceedings in all respects. When the degree is not a basic qualification for the promotional post, they have not considered this aspect as well as the exemption already granted in favour of the petitioners. For all these reasons, the impugned



order is liable to be scrapped.

6.The learned counsel appearing on behalf of the contesting respondents opposed the contentions by stating that the petitioners are not qualified for the promotion and they have not possessed the valid degree for the purpose of considering their names or for inclusion of their names in the panel for approval to the post of Assistant Accounts Officer/Assistant Audit Officers. The Board Proceedings are unambiguous regarding the qualifications acquired in violation of UGC regulations. Thus, the TANGEDGO administration had rightly deleted the names of the contesting respondents 5 to 43 on the ground that they have not possessed the requisite qualifications for the promotion to the post of Assistant Accounts Officer/Assistant Audit Officers.

7.The learned counsel appearing for the contesting respondents solicited the attention of this Court with reference to the proceedings of the TANGEDGO, dated 02.09.2020, wherein the name of one of the petitioner viz., P.Sundaramoorthy, is not included in the panel, since he possesses one sitting B.Com., course in Osmania University, which is not eligible for promotion. In all cases, enough consideration has already been shown. Therefore, the petitioners are rightly excluded from the panel and therefore, the writ petitions are liable to be dismissed.

8.This Court is of the considered opinion that regarding the validity of the Degree possessed by the employees, the issues were settled by the Hon'ble Supreme Court of India and the said decision was followed by this Court in many number of judgments and if the degrees obtained are not in consonance with the UGC Regulations or with reference to the pattern of education, then such degrees are invalid in the eyes of law. The validity of Degree is to be ascertained by the employer concerned and only when the employees are able to establish that they possess the valid Degrees, then the same can be considered for further promotion. It is needless to state that if at all the posts in which the petitioners are working, the rule does not prescribe the Degree qualification and some of the employees were appointed, despite the fact that they have not even studied 10th or +2, then their services in the original post alone is protected and they may not be entitled for further promotion. In view of the fact that even they have not completed the minimum general educational qualification of SSLC or +2, all these aspects are to be verified by the TANGEDGO administration with reference to the service records as well as the educational qualification possessed by the employees. Only verification of the service records and the qualifications are important for the purpose of considering the names in the panel. However, the degrees granted through Open University or one sitting degree or the degree pattern without undergoing regular educational pattern of 10, +2, all such degrees cannot be considered as a valid degree for the purpose of granting



promotions.

9. There may be a various circumstances in the matter of consideration of the educational qualification possessed by the respective employees. Thus, the qualification and eligibility are to be verified with reference to the records. If an employee had not even studied 10th std., or +2 and thereafter, obtained a degree, he may not be even eligible to hold the senior level post. However, the promotion is extended by the Hon'ble Supreme Court in the post in which they are working as well as the promotions are concerned such promotions, who all are not possessing qualification in accordance with law cannot be considered for promotion. Therefore, these aspects are to be verified by the authorities concerned and accordingly, a decision is to be taken in a consist manner.

10. As far as the validity of the degree qualifications are concerned, this Court has elaborately considered the issues in order, dated 29.08.2019 passed in W.P.No.7198 of 2015, wherein in paragraph No.7, it has been held as follows:-

"7. This Court has considered a similar issue by order dated 09.07.2019 in W.P.(MD) No.13488 of 2014 and the relevant paragraphs are extracted hereunder:

"4. The learned counsel appearing on behalf of the respondents states that as per the Government Orders in force any candidate, who has acquired simultaneous degrees are not eligible for appointment to the post of Graduate Assistant. Simultaneous degrees are impermissible and therefore, the writ petitioner is not qualified for appointment to the post of Graduate Assistant as per the Government Orders in force.

5. The learned counsel for the writ petitioner referred the judgment of this Court, dated 13.02.2015 passed in W.P.(MD) No.1677 of 2013, he referred Paragraph No.9 of the judgment which reads as under:

"9. Considering the above stated facts, I am of the view that the respondent is not correct in stating that the petitioner studied M.A., and B.Ed., in the same year. As already pointed out, the petitioner after passing the B.Ed., degree in the month of April 2008, joined the M.A., course in the academic year and however, completed the course and became successful only in the month of April 2010, for which, examination was conducted in the month November 2009. Therefore, it cannot be said that the



petitioner has studied both the B.Ed., and M.A., in the same year."

6.Plain reading of the orders passed by this Court reveals the fact that the petitioner in that writ petition studied B.Ed., degree in the month of April 2008 and joined M.A., course in the very same academic year. Therefore, it is made clear that on completion of B.Ed., degree in the month of April 2008, the writ petitioner joined in M.A., degree in June 2008. The said factual position cannot be compared with the case of the present writ petitioner, as the present writ petitioner studied two courses during the same academic year. Thus, the judgment relied upon by the writ petitioner is of no avail to him as the facts are distinct are different.

7.As far as the case of the writ petitioner is concerned even as per the affidavit filed in support of the writ petition, the petitioner joined the B.Ed., course in June 2008 and completed the B.Ed., course in June 2009 in the regular course. When a student is studying B.Ed., regular course in a college cannot seek admission for Post Graduation Course at all. The transfer certificate issued to the writ petitioner was submitted at the time of securing admission to B.Ed., course in the regular college, therefore, a student studying in a regular B.Ed., course cannot undergo the Master degree course in any other University. This being the University Grants Commission Regulation, the writ petitioner secured admission for M.Sc.,(Geography) course during June 2008 itself. The writ petitioner completed the M.Sc.,(Geography) two years course in May 2010. Therefore, it is apparently clear that during the same academic year in June 2008, the writ petitioner secured admission for B.Ed., course in a regular college and secured admission for M.Sc., (Geography) course from the university. Therefore, during the same academic year of 2008-09, the writ petitioner had undergone one year B.Ed., course as well as first year M.Sc.,(Geography) course. This being the factum of the case, the writ petitioner has acquired the simultaneous degree which is impermissible and not valid for the purpose of securing appointment to the post of Graduate Assistant.



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8.The learned counsel for the writ petitioner cited the judgment of the Hon'ble Division Bench of this Court reported in **2016 Writ L.R. 844**. However, the said judgment was in relation to the Tamil Nadu Public Service Commission appointment. Therefore, the same cannot be equated with the appointments in the Education Department.

9.The Department of Education has got certain restrictions and therefore, the appointments made to the ministerial posts in other departments cannot be compared with the teaching posts in Education Department. The teaching posts in Education Department has got a distinct character and requires some specialized education for the purpose of imparting education to the children and students studying in schools and colleges. Therefore, comparison of the ministerial posts, administrative post with teaching post cannot be equated.

10.Teaching is a skill. Teaching is a noble profession. A Teacher, who knows the class room alone can handle the students in the class room effectively. A teacher is treated as a noble man for the purpose of building the nation. The respect towards the Teachers in our country or throughout the world are un-comparable with the ministerial staffs or administrative staffs working in other departments. The Teachers are enjoying the special status in the Society by virtue of their position. In view of the fact that they are sharing the knowledge for the upliftment of the children and the students, who are all the nation builders of our great nation in future. Thus, the post of teaching can never be compared with the ministerial posts at all.

11.The recent growing trend is that the quality of teachers and the appointments in teaching posts are not upto the mark and the selections are done in a mechanical and routine manner. Selections to the teaching post must be done by verification of character and antecedents and also the capability of a person to teach the students in the class room. Teaching being a skill, the assessment of skill regarding the teaching of a person is of paramount importance. However, no such scrutiny or interview is conducted in this perspective. Contrarily, ~~merely~~ based on the verification and qualifications



teachers were appointed. That is the reason why the Government Schools are facing so many issues and difficulties.

12. In recent years, even in High Schools and Higher Secondary Schools, large scale of sexual harassment allegations are made against the Teachers. Large number of harassment by the Teachers are brought to the notice of the department. Many number of such allegations are in the public domain, Teachers are involved in private business. The Teachers are soliciting the students for tuition. The Teachers, who are taking classes are soliciting the students to attend private tuition classes in their home. They are not only commercializing the education, they are always acting for unlawful enrichment. This being the recent trend being developed in our great nation, it is a high time where the system of selection and appointment to the teaching posts must be reviewed and appropriate policy is to be framed for the purpose of selecting and appointing the teachers in schools, more specifically, in the State of Tamil Nadu.

13. Even the Hon'ble Division Bench of this Court in W.P.(MD) No.1256 of 1999 dated 25.04.2002, considered the similar issue of entertaining the degree obtained through correspondence courses for appointment to the teaching posts, the Hon'ble Division Bench consist of Hon'ble Mr. Justice P. Shanmugam and Hon'ble Mr. Justice F.M. Ibrahim Kalifulla as he then was and Mr. Lordship P. Shanmugam while speaking for the Bench elaborately considered the provisions of the University Grants Commission Act and the relevant paragraphs are usual to understand the importance of the regular course for appointment to the teaching posts. The degrees obtained through Open University system as well as the correspondence courses were also considered by the Hon'ble Division Bench with reference to the provisions of the University Grants Commission Act.

"11. Section 22 of the University Grants Commission Act, 1956 empowers the university to confer degrees. Sub-section (3) of Section 22 says that degree means any degree as may, with the previous approval of the Central Government, be specified in this behalf by the Commission by notification in the Official Gazette. The Central Government is

empowered under Section 25 to define the



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minimum standards of instructions for the grant of any degree by any university. It is not clear whether M.A. Degree under the Scheme of Open University System has been approved by the Central Government and whether the university has conformed to the minimum standards for grant of the degree. However, it is clear that a mere expression 'degree' does not mean that it is to be treated as equivalent or to be accepted as a degree specified in the rules. Further, it is open to the Government to consider whether the M.A. Degree obtained from open university can be treated as a degree for the purpose of appointment. Understandably, the Government had passed an order in G.O. Ms. No.216 dated 26.8.1997 to treat the M.A. Degree from open university as equivalent to the Bachelor's Degree for appointment in public service. Therefore, it follows that the Government is entitled to clarify the qualifications prescribed under the rules. But for this clarification, the M.A. Degree would not have been treated as equivalent to the Bachelor's Degree for public employment. It further follows that the said Government Order can also be modified for reasons set out in the subsequent Government Order. The Government has given reasons to take a different view insofar as the appointment of teachers is concerned.

12. A Constitution Bench of the Supreme Court in *SANTRAM SHARMA VS MANU/SC/0330/1967*, while repelling the contention that in the absence of any statutory rule governing the promotions to selection grade posts, administrative instructions imposing restrictions not found in the rules already framed cannot be issued, has held that till statutory rules are framed in that behalf, the Government can issue administrative instructions regarding the principles to be followed. Their lordships held as follows :

"It is true that the Government cannot amend or supersede statutory rules by administrative instructions. But, if the rules are silent on any particular point, the Government can fill up the gaps and supplement the rules and issue instructions



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not inconsistent with the rules already framed."

The argument of the learned counsel for the respondents is that while the Government rules did not impose any instructions in the rules already framed, the M.A. Degree cannot be denied as being equivalent to the Bachelor's Degree. But, in the circumstances of the case, it has to be stated that the rule is silent as to the eligibility of M.A. Degree from open university. The said degree was not thought of at the inception of the rule and therefore, it has to be held that there is a gap or an area requiring instructions to supplement the rules. In *CONTROLLER AND AUDITOR GENERAL OF INDIA VS MANU/SC/0495/1991*, the Supreme Court held that administrative orders can be issued to supplement the statutory rules. In *KRISHNA CHANDRA SAHU VS MANU/SC/0092/1996*, it was held that if the rules are silent on any subject or point in issue, the omissions can be filled up and the rules can be supplemented by executive instructions. In *STATE OF ORISSA VS MANU/SC/1383/1998*, it was held by the Supreme Court that if the rules are silent, administrative instructions can be issued to supplement the rules. The rules cannot be treated to have been abrogated and they continue to govern the recruitment and conditions of service of teachers.

13. A Division Bench of this court in *MEENAKSHI SUNDARAM VS. DIRECTOR OF LEGAL STUDIES*, has held that the expression "to lay down standards of such education" occurring in Section 7(1)(h) of the Advocates Act is capable of taking in every ingredient which will go to constitute the end or the ultimate level of education that is expected of a candidate who applies for enrolment as an advocate under the Act. The argument that "standards of such education" occurring in Section 7(1) of the Act refer only to the excellence of education aimed at and will not take in other matter, such as whether the course should be a regular one or may be a correspondence or as to how much attendance a candidate has put in, cannot be accepted.

Their lordships also, while holding that the



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said restriction comes as a reasonable restriction in the interest of general public, held that the Constitution itself provides that any law, relating to the provisional qualification necessary for practising any profession or for carrying on any occupation, trade or business, will have to be followed and it cannot be said to be in any way derogatory to the right of a citizen guaranteed under Article 19(1)(g) of the Constitution. The prescription made by the Bar Council of India regarding attendance in a regular course in a college or the prescription regarding particular percentage of attendance in such lectures in law are saved by Article 19(6) of the Constitution and they are relevant to the standards of legal education as a qualification. The courts are not concerned with the wisdom of the competent body, but are concerned only with the competency or the constitutionality. Therefore, it cannot be stated that the Government is not empowered to supplement the statutory rule and clarify the qualification required for the post.

14. The M.A. Degree holders from open university acquire knowledge only in the relevant subjects in which the candidate appears for the graduate course and the course may be either through Tamil or English mediums. But, however, they do not have proficiency of English as a language in the degree level. The M.A. Degree holders from open university who do not study English as a language in degree level cannot have the ability in that language and they could not even have studied the language to the high school level. Since no formal education is required and that these candidates write the concerned subjects directly, they do not have any level of language study and therefore, they cannot be compared with the B.T. Assistants or Tamil Pandits or B.Ed. Degree holders. Therefore, they cannot be treated as having qualification to teach Standards VI, VII and VIII.

15. The contention that the Tamil Pandits who are considered for promotion by transfer do not have the knowledge in English cannot hold



water since in all cases where Tamil Pandits are appointed as Headmasters,

B.T. Assistants are appointed to handle the English Language specifically.

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16. In *JUTHIKA VS MANU/SC/0546/1976*, their lordships held that it is well settled that the question whether a provision is directory or mandatory depends upon the object and purpose and not merely on the use of any particular word or phrase and having regard to the object. It has to be seen whether the person possesses the requisite qualification for being appointed as Headmaster of a higher secondary school. As stated earlier, the requisite qualification as prescribed under Rule 13 of the General Rules refers only to a basic qualification. The argument that there is no exclusion of a Post Graduate Degree has to be considered in the context of the object and purpose of the requirement of a degree. In any event, the M.A. Degree is not the requisite qualification and while considering the equivalent of the said degree, the object and the purpose for which a degree has been insisted upon has to be looked into, and the Government, having taken into account the relevant factors, have decided not to consider the M.A. Degree obtained in an open university as equivalent to the Bachelor's Degree.

17. In *RAMESH PRASAD VS MANU/SC/0329/1977*, their lordships held that as is well known, the process of rule making is a protracted and a complicated one, involving consultation with various authorities and containing manifold formalities. It cannot also be disputed that exigencies of administration, at times, require immediate creation of posts and any procrastination in that behalf will only prove detrimental to the efficient functioning of public departments. In such like situations, the authorities concerned will have the power to appoint or terminate administrative personnel under a general power of administration vested in them. It follows, therefore, that in the absence of rules, the qualifications for a post can

validly be laid down in a self-saving



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executive order. Therefore, though the impugned Government Order has stated that the service rules have to be amended, it presupposes various procedural formalities to be completed. In the circumstances of the case, therefore, it cannot be stated that the Government has no authority to issue the instructions dealing with the subject and it cannot be stated that the said decision is unreasonable or arbitrary.

18. The contention of the counsel for the contesting respondents that the field is occupied by the existing service rules and that the Government Order is arbitrary, therefore, cannot be sustained. As stated earlier, the scheme of Open University System is of a recent origin, i.e. of the year 1995 or so. In that context, and in the light of the various kinds of degrees and diplomas being conferred by different universities, it cannot be stated that the Government is not empowered to supplement the meaning to the degree or the equivalent of a degree. Considering the background and the context under which the Government has issued the order, we do not find anything unreasonable in excluding a direct M.A. Degree obtained from open university.

19. In A.K.E. SOCIETY VS. DIRECTOR OF SCHOOL EDUCATION A.I.R. 1989 S.C. 183, the Supreme Court observed that the role of teachers is central to all processes of formal education. The teacher alone could bring about the skills and intellectual capabilities of students. He is the 'engine' of the educational system. He is the principle instrument in awakening the child to cultural values. He needs to be endowed and energised with the needed potential to deliver the yeoman service expected of him. His qualities should be such to inspire and to motivate into action of the benefitter. An ill-trained or substandard teacher will be detrimental to the education system, if not a punishment to our children. The Government and the universities were commanded to see that sufficiently qualified teachers are appointed.



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20. A candidate who had not attended formal education even a single day is permitted to acquire M.A. Degree and the same is requested to be treated as equivalent to a degree. Unlike other appointments, the qualification of a candidate has got a direct nexus with the job of teaching. The Teachers are meant to teach children of impressionable age. In NAGESHWARAMMA VS . STATE OF A.P. MANU/SC/0100/1986 : AIR1986SC1188 , their lordships held that we cannot let loose on the innocent and unwary children, teachers who have not received proper and adequate training. True, they will be required to pass the examination, but that may not be enough. Training for a certain minimum period "in a properly organised and equipped Training Institute is probably essential before a teacher may be duly launched". Even though their lordships were dealing with the Teachers Training Institute, formal education of a teacher cannot be overemphasised. The qualification required for persons who handle the educational institutions should be necessarily higher than the qualification fixed for other jobs. The course of study and the qualification of a teacher are germane to the maintenance of efficiency and excellence in education. The State has got a duty to see that the efficiency and excellence of educational standards are maintained.

21. It is argued that many of the contesting respondents have already studied upto high school level and therefore, technically, they would have gone through the system of formal education. While considering the scope of the equivalence of a M.A. Degree, theoretically it is not possible to contend that a person who has not even gone into the shades of a school even during rain or sunshine would be able to become a headmaster of a middle school in case of direct recruitment. Such a contingency would cause great havoc to the system of education. Therefore, whatever may be the purpose for which the open university provides for M.A. Degree, insofar as the appointment of teachers is concerned, we are of the considered view that such degrees cannot be equated with a degree, which is the



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minimum qualification required for the post. In our view, the Government Order is reasonable and has been exercised appropriately as a supplement to the service rules. The Tribunal, in our view, had erred in interfering with the Government Order."

14. In paragraph No.21 of the judgment, the Hon'ble Division Bench made an observation that "whatever may be the purpose for which the Open University provides M.A., degree, in so far as the appointment of teachers is concerned, we are of the considered view that such degrees cannot be equated with a degree, which is the minimum qualification required for the post". Therefore, the Hon'ble Division Bench was of the opinion that the teaching post must be filled up from the candidates, who have undergone the regular course by attending the college. The candidates, who studied in Open University system or correspondence courses, cannot be considered as a suitable candidate for appointment to the teaching post.

15. Assessment of suitability is also the criteria to be followed while undertaking the process of selection. While considering the suitability of a candidate, the manner in which the degrees are obtained by such candidates are also to be scrutinized. The candidates, who had undergone the regular classes will be the better persons to handle the classes in schools and colleges. Thus, the candidates, who studied in regular courses in accordance with the pattern of education prescribed by the University Grants Commission alone must be the eligible candidates with reference to the rules for appointment to the teaching post in schools and colleges. This being the principles to be followed this Court is of the considered opinion that the writ petitioner admittedly had secured admission for two courses in the same academic year namely B.Ed., course as well as M.Sc., (Geography) course. The admission was secured during the academic year 2008-2009 more specifically, in June 2008. This being the factum, it is made clear that the writ petitioner has secured simultaneous degree which is not a valid qualification for the purpose of securing appointment to the post of Graduate Assistant.



16. Under these circumstances, this Court has no hesitation in coming to the conclusion that the decision taken by the respondents are in consonance with the legal principles settled and accordingly, the Writ Petition is devoid of merits and dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

11. The learned counsel appearing on behalf of the contesting respondents reiterated that the educational qualification, its validity, eligibility and other conditions stipulated in the Board Proceedings, as well as the rules in force are to be considered only based on the service particulars of the individuals and accordingly, a decision is to be taken. Such a course would be a fair approach for the purpose of resolving the dispute between the employees in the matter of grant of promotion.

12. In these view of the matter, the following orders are passed,

(i) The respondents 3 and 4 are directed to verify the entire service records of the employees concerned and ascertain the validity of their educational qualifications and other eligible criteria prescribed in the rules as well as in the Board Proceedings and accordingly, take a decision to consider the names for the promotion to the post of Assistant Account Officer by following the procedure contemplated.

(ii) In the event of any changes or amendments are sought to be made, then appropriate orders to be passed and accordingly, the promotions are to be granted by following the procedure contemplated.

(iii) After verification, if the authorities found that the petitioners are to be promoted then appropriate decision is to be taken to promote the seniors on par with their juniors with all attendant benefits.

(iv) The respondents 3 and 4 are directed to strictly follow the judgment of the Hon'ble Supreme Court of India and the High Court in the matter of validity of the degree qualification in consonance with the regular pattern of education prescribed by the university Grants Commission.

(v) The respondents 3 and 4 are directed to pass appropriate orders after taking decision in all these issues, as expeditiously as possible, preferably, within a period of four months from the date of receipt of a copy of this order.



13. With these directions, all these Writ Petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(CO)

// True Copy //

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Sub Assistant Registrar(CS)

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To

1. The Secretary to Government,
Energy Department, Secretariat,
Fort St. George, Chennai-600 009.

2. The Secretary to Government,
P&AR Department,
Secretariat, Fort St. George,
Chennai-600 009.

3. The Chairman and Managing Director,
TNEB Ltd and other corporate entities,
8th Floor NPKRR Maaligai,
144, Anna Salai,
Chennai 600 002.

4. The Chief Engineer(Personnel) Administrative Branch
TANGEDCO,
8th Floor NPKRR Maaligai,
144, Anna Salai,
Chennai 600 002.

+1 CC to M/s.T. SAKTHI KUMARAN, Advocate (SR-22713[F] dated
24/11/2020)

+1 CC to M/s.F. DEEPAK, Advocate (SR-23058[F] dated 27/11/2020)
+6 CC to M/s.T.LAJAPATHIROY, Advocate (SR-22867 & 22869[F] dated
27/11/2020)

W.P. (MD) Nos.5161, 7421 to 7425 and 10216 of 2013

and

M.P (MD) .Nos.3,4,1,2,1,2,1,2,1,2,1,2 and 2 of 2013

24.11.2020

MR (CO)

TR(22.12.2020) 22P 13C