



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2020

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.12444 of 2015

V.Sarumathi

... Petitioner

vs.

1)The Chief Engineer,
Agricultural Engineering Department,
No.487, Anna Salai,
Nandanam,
Chennai-35.

2)The Superintending Engineer,
Agricultural Engineering Department,
No.60, T.P.K. Road,
Madurai-11.

3)The Executive Engineer,
Agricultural Engineering Department,
No.60, T.P.K. Road,
Madurai-11.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent in Letter No.A/4345/2012 dated 14.05.2015 and quash the same as illegal and consequently directing the respondents to pass appropriate order for approving the Master of Engineering (Structural) Degree studied by the petitioner during 2011-2014.

For Petitioner : Mr.V.P.Rajan

For Respondents : Mr.S.Dhayalan, Government Advocate

ORDER

The prayer in the writ petition is to issue a Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent in Letter No.A/4345/2012 dated 14.05.2015 and quash the same as illegal and consequently directing the respondents to pass appropriate order for approving the Master of Engineering (Structural) Degree studied by the petitioner during 2011-2014.

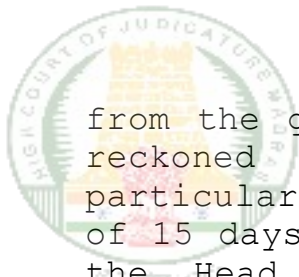
2.Learned counsel for the petitioner would submit that the petitioner was appointed as Assistant Soil Conservation Officer on 28.05.1998 and thereafter in 2008, she was promoted as Assistant Engineer and her services were regularised in the said post by the order dated 24.12.2009 passed by the 1st respondent. While so, she



was sent to the office of the Government Press, Madurai, on 26.05.2008 on deputation basis. She submitted an application on 30.05.2011 to the 1st respondent through the Deputy Works Manager, Government Press, Madurai, seeking permission to study Master of Engineering in part time course and the Deputy Works Manager had endorsed in the petitioner's application as permission granted. In the meanwhile, the petitioner was relieved from the office of the Deputy Works Manager, Government Press, Madurai, on 13.06.2011 and posted in the parent department on 15.06.2011. On 17.06.2011, the Deputy Works Manager, Government Press, returned the above application of the petitioner on account of her relieving to the parent department and the same was informed to the petitioner only on 05.08.2011. Since the University did not start the classes, the petitioner submitted another application to the 1st respondent on the same day through proper channel.

3.It is further submitted that the 1st respondent by letter dated 16.11.2011 raised question in connection with her application dated 05.08.2011 submitted before him stating that whether it is necessary to consider her application, as the last date for sending the application was expired on 10.06.2011 and the petitioner submitted his explanation dated 04.01.2012 stating that since she was sent back to the parent department, her application was returned by the Deputy Manager, Government Press, on 17.06.2011 and thereafter she submitted the present application to the 1st respondent through proper channel as the classes commenced only on 17.08.2011. Thereafter, the 1st respondent by letter dated 26.07.2012 directed the petitioner to produce the copy of the application dated 30.05.2011 submitted to the Deputy Works Manager, Government Press, Madurai, and the petitioner produced the said application and also the permission letter of the Deputy Works Manager for studying M.E Structural. The petitioner gave a reply stating that only due to the fault of the Deputy Manager in keeping her application pending instead of forwarding it to the 1st respondent in time and communicating the return of her application only on 05.08.2011, she had to file the present application on the same day. But the 1st respondent did not pass any order and during the pendency of her application, the petitioner completed the course in May 2014 and thereafter, she preferred representations one after another to the 1st respondent through proper channel for approving her master degree.

4.According to the learned counsel for the petitioner, as per G.O.Ms.No.200, Personnel and Administrative Reforms(A) Department, dated 19.04.1996, the applications of the government servants seeking prior permission for joining correspondence course/evening college/private study shall be disposed of by the Head Office/Head of the Department within 15 days from the date of receipt of the application and if any clarification or particulars are sought for

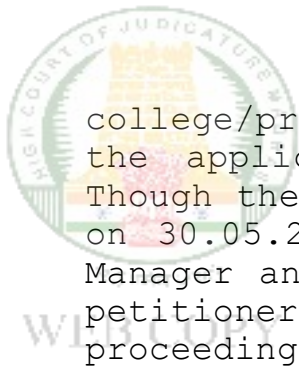


from the government servant, the said period of 15 days shall be reckoned from the date of receipt of such clarification or particulars and where no order has been issued within the period of 15 days, it shall be deemed that the Head of the Department or the Head of the Office has granted permission for joining correspondence course/evening college and the Head of the Department will be held responsible, if any eligible person happens to avail deemed permission by default. As no orders were passed on her representations seeking approval of her master degree, the petitioner filed W.P(MD)No.2212 of 2014 for a Mandamus directing the 3rd respondent to consider her representation dated 29.10.2013 for granting approval to the Master of Engineering (Structural) studied by her during 2011-2014 in the light of G.O.Ms.No.200, Personnel and Administrative Reforms(A) Department, dated 19.04.1996. This Court by order dated 22.12.2014 directed the 3rd respondent to consider above representation within six weeks. Pursuant thereto, the 3rd respondent vide impugned order dated 14.05.2015 rejected the petitioner's representation stating that the explanation given by the petitioner is contradictory. Thus, the learned counsel would pray for setting aside the impugned order.

5.The 1st respondent has filed counter affidavit. Learned Government Advocate appearing for the respondents would state that when the last date for applying the course was 10.06.2011, it is not proper for the petitioner to send the application on 05.08.2011. However, her explanations dated 14.03.2013 and 29.10.2013 along with previous representations and explanations dated 04.01.2012 and 15.10.2012 were considered and the request for ratification itself clearly shows that she had not obtained prior permission from the department in time and therefore, her request for ratification was rightly rejected. Thus, he would pray the interference of this Court is not necessary.

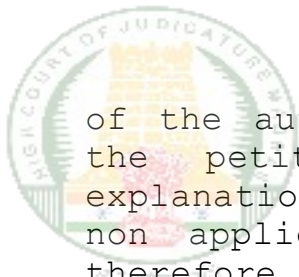
6.Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondents.

7.Perusal of record shows that admittedly, the application seeking approval of her M.E(Structural) in part time course was rejected by the 3rd respondent by impugned order stating that the explanation given by the petitioner is not satisfactory. It appears that initially on 30.05.2011, the petitioner on giving the application to the Deputy Works Manager, Government Press, Madurai, sought for admission and on the endorsement made by the Deputy Works Manager, got admission, but the application was not forwarded to the 1st respondent. As per G.O.Ms.No.200, Personnel and Administrative Reforms(A) Department, dated 19.04.1996, if no orders are passed in the application of the government servants seeking prior permission for joining correspondence course/evening



college/private study within 15 days from the date of receipt of the application, it is deemed to have been given permission. Though the petitioner had rightly given the application originally on 30.05.2011, an endorsement has been made by the Deputy Works Manager and a certificate was also issued by him stating that the petitioner is an approved probationer and no disciplinary proceedings are pending against her and the distance between the work spot and college is 1 km. While the petitioner was waiting for the orders of the 1st respondent, a communication was received by her on 05.08.2011 from the 3rd respondent returning her application and directing her to make fresh application through proper channel to the 1st respondent as she was sent back to the parent department. Therefore, only due to the above stated reasons, the petitioner had to apply once again to the 1st respondent on 05.08.2011, but no orders were passed thereon and therefore as per G.O.Ms.No.200, Personnel and Administrative Reforms(A) Department, dated 19.04.1996, the petitioner is deemed to have been allowed to study the part time course. Now, the petitioner has sought for ratification/approval of M.E(Structural) degree.

8. Admittedly, there is no dispute in regard to the submission of the initial application of the petitioner made on 30.05.2011. It is also not in dispute that the same has been returned instead of forwarding it to the 1st respondent. Though the application was returned as early as on 17.06.2011, it was communicated to the petitioner only on 05.08.2011. G.O.Ms.No.200 specifically states that if no reply is given within 15 days, the application is deemed to have been accepted. The Deputy Works Manager, Government Press, Madurai, had kept the application from 30.05.2011 till 17.06.2011 without forwarding it to the 1st respondent. The 1st respondent has admittedly not passed orders in spite of various representations by the petitioner and therefore, the petitioner came forward with W.P(MD)No.2212 of 2014 for a Mandamus directing the 3rd respondent to consider her representation dated 29.10.2013 for granting approval to the Master of Engineering (Structural) degree studied by her during 2011-2014 in the light of G.O.Ms.No.200, Personnel and Administrative Reforms(A) Department, dated 19.04.1996. This Court by order dated 22.12.2014 directed the 3rd respondent to consider above representation within six weeks from the date of receipt of a copy of the order. The petitioner has completed her course in May 2014. The petitioner has taken all efforts genuinely in applying for permission for pursuing M.E(Structural) degree course. It is also brought to the notice of this Court one another incumbent namely, S.Rajendran, Assistant Executive Engineer who had not even got permission, had been granted permission vide letter No.PA2/34912/2011 dated 30.09.2011. Here, the petitioner has genuinely taken all efforts to seek permission



of the authorities and while considering the representations of the petitioner, the authorities have not considered the explanation given by the petitioner and G.O.Ms.No.200 and in total non application of mind, have passed the impugned order and therefore, I am inclined to interfere with the order.

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9.Accordingly, the impugned order passed by the 3rd respondent in Letter No.A/4345/2012 dated 14.05.2015, is quashed and the respondents are directed to pass orders approving the M.E (Structural) degree obtained by the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CRL.SIDE)

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/ /2020

Sub Assistant Registrar(CS)

To

1)The Chief Engineer,
Agricultural Engineering Department,
No.487, Anna Salai,
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2)The Superintending Engineer,
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+1 CC to M/s.SPL.GP (SR-105[F] dated 03/01/2020)

ORDER MADE IN

W.P(MD)No.12444 of 2015

DATED : 02.01.2020

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