



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.01.2020**

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.11319 of 2016

and

W.M.P. (MD) No.8669 of 2016

S.Mercy Shalinie

... Petitioner

/vs./

1.The Secretary,
Higher Education Department,
Chennai.

2.Director of Technical Education,
Guindy, Chennai-600 025.

3.The Chairman and Correspondent,
Thiagarajar College of Engineering,
Madurai-625 015.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the original records pertaining to the impugned order Letter No.21308/A4/2015, dated 16.02.2016 and quash the same and further direct the respondents to grant approval to the selection of the petitioner as Professor of Department of Computer Science and Engineering in the third respondent's college with effect from 19.06.2011 and to grant all other consequential monitory and service benefits.

For Petitioner : Mr.R.Narayanan

For Respondents : Mr. M.Karuppasamy

Government Advocate (for R1 and R2)

Mr.M.Mahaboob Athiff

for M/s.Ajmal Associates (for R3)

ORDER

The petitioner was originally employed as Associate Professor under the third respondent College. When she had participated for selection to the post of Professor in the department of Computer Science and Engineering, she was declared to be selected. However, the second respondent had rejected the requisition for approval of the selection on the ground that the petitioner was an internal candidate. Challenging the same, the present writ petition has been filed.

2.In an identical writ petition, the issue as to whether an internal candidate could participate in direct recruitment, came up

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for consideration before this Court in W.P.(MD)No.15348 of 2016 and this Court, by an order dated 03.12.2019, had held that the appointment of an internal candidate to such a post is valid and had accordingly, directed the authorities to grant approval to the said appointment. The relevant portion of the said order reads as follows:-

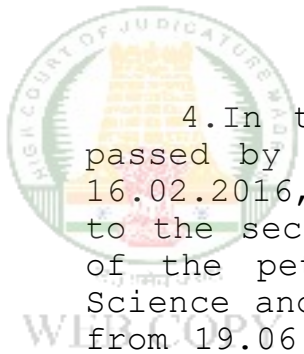
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"...8.It is not in dispute that the petitioner had possessed the necessary qualification for the advertised post of Professor and that the only reason cited by the respondents for rejecting the petitioner's selection is that under Rule 8 of the Tamil Nadu Educational Service Rules, the mode of recruitment for the post of recruitment in Engineering Colleges is through promotion.

9.There is no bar under the service rules to forbear an internal candidate in participating in the direct recruitment. This aspect has not been denied in the counter affidavit. While that being so, the petitioner's participation in the selection process cannot be questioned. As a matter of act, among the methods of recruitment for the post of Professor as envisaged under Rule 8 of Tamil Nadu Educational Service Rules is also through direct recruitment. While that being so, the present stand taken by the respondents 1 and 2 that the petitioner could be treated only as an internal candidate has no foundation at all. Consequently, it can only be held that the entire selection process was in conformity with the rules and regulations and thereby, the rejection of the petitioner's selection cannot be sustained.

10.In the light of the above observations, the impugned order passed by the second respondent in Letter No.11101/A4/2013, dated 13.4.2015 and the consequential proceedings in Letter No.21307/A4/2015, dated 16.2.2016 are set aside. Consequently, the second respondent is directed to approve the appointment of the petitioner to the post of Professor with the third respondent/College in Computer Application Department, as expeditiously as possible, in any event, within a period of four weeks from the date of receipt of a copy of this order.."

3.The aforesaid extract is self explanatory. In view of the same, there cannot be any bar under the Service Rules forbearing an internal candidate participating in direct recruitment and consequently, the second respondent is bound to grant approval for the selection, which has been properly made.



4.In the light of the above observations, the impugned order passed by the second respondent in Letter No.21308/A4/2015, dated 16.02.2016, is set aside. Consequently, there shall be a direction to the second respondent herein to grant approval to the selection of the petitioner as a Professor in the Department of Computer Science and Engineering in the third respondent College with effect from 19.06.2011 itself, (i.e.) from the date of a selection. Such an exercise shall be done at least within a period of four weeks from the date of receipt of a copy of this order.

5.The Writ Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

To

1.The Secretary,
Higher Education Department,
Chennai.

2. The Director of Technical Education,
Guindy, Chennai-600 025.

+1 CC to M/s.T.BANUMATHY, Advocate (SR-3786[F] dated 29/01/2020)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-3825[F] dated
30/01/2020)

+1 CC to SPL.GP (SR-3890[F] dated 30/01/2020)

Order made in
W.P. (MD) No.11319 of 2016
29.01.2020

MK (14.02.2020) 3P 6C