



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.6678 of 2020
and
W.M.P.No.7925 of 2020

(Through Video Conferencing)

Vijayalakshmi

...Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Department of Higher Education,
Secretariat, Chennai.
2. The Commissioner of Technical Education,
Directorate of Technical Education,
Sardarpatel Road, Guindy, Chennai - 25.
3. The Principal,
Government Polytechnic College,
Arakandanallur,
Villupuram District.

...Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus, to direct the respondents to treat the petitioner's service as fulltime temporary Lecturers as per the G.O.(D) No.290, Higher Education (11) Department, dated 04.11.2019.

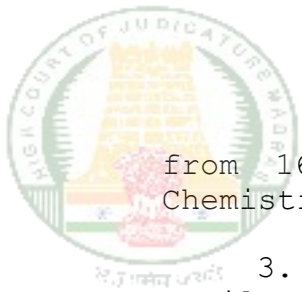
For Petitioner : Mr.R.Singaravelan, Senior Counsel
for Mr.M.Muruganantham

For Respondents: Mr.L.S.M.Hasan Fizal, Govt. Adv.

O R D E R

This Writ Petition has been filed for issuance of a Writ of Mandamus to direct the respondents to treat the petitioner's service as full time temporary Lecturers as per G.O.(D) No.290, Higher Education (11) Department, dated 04.11.2019.

2. The petitioner was teaching on hourly basis with the third respondent Government Polytechnic College, Arakandanallur



from 16.08.2010 as a part time Lecturer, in Department of Chemistry.

3. It is the case of the petitioner that the Government of Tamil Nadu has issued G.O.(D) No.290, Higher Education (11) Department, dated 04.11.2019. In the said G.O., the Government has decided to be appointed the teachers working on temporary basis as a part time Lecturers, to the post of full time temporary Lecturers on contract basis under consolidated remuneration of Rs.15,000/- per month, instead of appointing them as part time Lecturers on hourly basis, until all vacant sanctioned posts are completely filled up by the Teachers Recruitment Board.

4. The learned senior counsel for the petitioner further submits that the Government also sanctioned a sum of Rs.25.26.15 lakh (Rupees Twenty Five Crore Twenty Six Lakh and Fifteen Thousand only) towards remuneration for the faculty to be appointed subject to the following conditions:-

- i. The faculty shall be appointed only for 11 months in a year for avoiding legal disputes in future.
- ii. The service of faculty shall not be regularized in future.
- iii. The appointment of faculty is purely temporary and they will be terminated from the service by the Government, after necessity is ceased.
- iv. No honorarium will be paid to faculty to be appointed on contract basis on consolidated pay.

5. The learned Senior Counsel for the petitioner submits that nowhere in the aforesaid conditions it has been stipulated that persons who having only II-Class Pass in U.G. and P.G. are not entitled to be appointed as temporary Lecturer on contract basis under consolidated remuneration of Rs.15,000/- per month. He further submits that the respondents themselves have given a clarification for converting the marks and if the said guidelines are followed by the respondents, the petitioner will get 62.32% in the relevant discipline to be appointed.

6. The learned Senior Counsel further submits that the conditions stipulated for direct appointment and for promotion have not been made applicable in the case of G.O.(D) No.290, Higher Education (11) Department, dated 04.11.2019. He further submits that only right available to the petitioner in the said G.O. has been denied by the respondents though the petitioner is otherwise in qualified. It is further submitted that the part time temporary Lecturers of Annamalai University have been



absorbed overlooking the petitioner's service in institutions though appointed on hourly basis as a Lecturers in third respondent College.

7. The learned Government Advocate appearing for the respondents submits that the petitioner is not entitled to be appointed even on temporary basis as the Certificates of the petitioner clearly reveal that the petitioner has not cleared both her U.G and P.G. with I-Class.

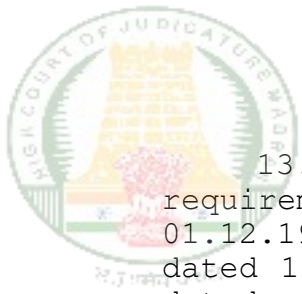
8. He further refers to G.O.Ms.No.597, Home Education Department, dated 01.12.1997 and G.O.(Ms.) No.165, Higher Education (B1) Department, dated 13.06.2006. It is specifically stated that if the candidate has a Master's Degree in the appropriate branch of Engineering / Technology / Architecture, the candidate should possess a first class or equivalent in the appropriate branch either at Bachelor's Degree or Master's Degree level and therefore, the petitioner cannot claim any right under the aforesaid Notification.

9. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and perused G.O. (D) No.290, Higher Education (11) Department, dated 04.11.2019 and earlier G.O.Ms.No.597, Home Education Department, dated 01.12.1997 and G.O.(Ms.) No.165, Higher Education (B1) Department, dated 13.06.2006.

10. From a plain reading of the notification in G.O.(D) No.290, Higher Education (11) Department, dated 04.11.2019, it is noticed that G.O. has not made it compulsory for a tacher to have I-Class pass either in degree or in the respective subjects. These are applicable only for appointment on regular basis and for promotion.

11. It is noticed that G.O.Ms.No.597, Home Education Department, dated 01.12.1997 also makes it clear that a person who has Master's Degree in the appropriate branch of Engineering / Technology / Architecture, as the case may be, should possess a first class or equivalent in the appropriate branch either at Bachelor's or Master's degree level which was reiterated in G.O.Ms.No.176, Home Education (B1) Department, dated 08.07.2017.

12. The learned counsel for the petitioner has also filed a calculation of percentage in the relevant discipline, namely, marks obtained by the petitioner in the organic, inorganic, physical and general chemistry, as per which, it appears that the total calculation of the petitioner is 62.32%. There is a method prescribed by the respondents for making this calculation.



13. It is made clear that if the petitioner satisfies the requirement of G.O.Ms.No.597, Home Education Department, dated 01.12.1997, G.O.(Ms.) No.165, Higher Education (B1) Department, dated 13.06.2006, G.O.Ms.No.176, Home Education (B1) Department, dated 08.07.2017 and G.O.Ms.No.20, Higher Education (C2) Department, dated 14.01.2020, the petitioner may be absorbed without further delay.

14. I therefore direct the respondents to examine the calculation given by the petitioner and appoint the petitioner in terms of G.O.(D) No.290, Higher Education (11) Department, dated 04.11.2019 within a period of four weeks from the date of receipt of a copy of this order.

15. This Writ Petition stands disposed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

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To

1. The Secretary,
Department of Higher Education,
The Government of Tamil Nadu,
Secretariat, Chennai.
2. The Commissioner of Technical Education,
Directorate of Technical Education,
Sardarpatel Road, Guindy, Chennai - 25.
3. The Principal,
Government Polytechnic College,
Arakandanallur, Villupuram District.

+1cc to M/s.M.Muruganantham, Advocate, S.R.No.41784
+1cc to the Government Pleader, S.R.No.42052

W.P.No.6678 of 2020 and
W.M.P.No.7925 of 2020

SSD(CO)
RGA(05/10/2021)