



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	04.08.2021
Pronounced On	16.08.2021

CORAM
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.24287 of 2016
and
W.M.P.Nos.20772 of 2016 and 14030 of 2017

(Through Video Conferencing)

V.Prasath ... Petitioner
Vs.

1.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, Park Town, Chennai - 3.

2.The Joint Secretary,
Tamilnadu Public Service Commission,
Frazer Bridge Road,
Part Town, Chennai - 3.

3.The Secretary,
Personnel and Administrative
Reforms Department,
Fort St.George,
Chennai - 600 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the second respondent's order made in Memo No.7283/PD-B4/2015 dated 04.07.2016 and quash the same and consequently direct the respondents to forthwith extent all benefits of promotion and other service benefits, including promotion on par with his juniors.

For Petitioner : Mr.L.Chandra Kumar

For R1 & R2 : Mr.Karthik Rajan, Standing Counsel.

For R3 : Mr.L.S.M.Hasan Fizal, G.A.

O R D E R

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order of the second respondent in Memo No.7283/PD-B4/2015, dated



04.07.2016 and to quash the same and consequently to direct the respondents to forthwith extend all benefits of promotion and other service benefits, including promotion on par with his juniors.

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2. The petitioner had completed Degree in B.A. Political Science in the year 2008 through Distance Education after obtaining a Diploma in lieu of Higher Secondary Certificate. Thus, the petitioner completed 10+3+3. The petitioner had applied to the post of Assistant Section Officer. In terms of notification in Advertisement No.176 dated 10.11.2008 published by the first respondent Tamil Nadu Public Service Commission, the qualification prescribed for the post of Assistant Section Officer in the said notification of the first respondent is as under:-

- i. A Master's Degree or
- ii. A Bachelor's degree and BGL Degree or
- iii. A Bachelor's Degree with First Class in any one of the parts

Provided that in case of a candidate belonging to SC, ST, MBC/DC, BC (other than BCM), BCM, it shall be sufficient if he/she holds a Bachelor's Degree.

3. The petitioner appeared in the qualifying written examination in 2009 and was appointed on 17.05.2011 by the respondents and joined the duty as an Assistant Section Officer with the respondents on 31.05.2011. The petitioner's probation was later declared in the year 2016. There were temporary vacancies to the post of Section Officers during 02.09.2015 to 01.03.2016.

4. The petitioner's name was however not included in the panel for being promoted as a Section Officer in the respondent on the ground that the petitioner did not have six years of service qualification in the post of Assistant Section Officer as he was appointed as an Assistant Section Officer on 31.05.2011.

5. Under these circumstances, the petitioner sent a representation to the Government for relaxation as the petitioner did not have six years experience as an Assistant Section Officer.

6. The first respondent, the secretary of the Tamil Nadu Public Service Commission vide impugned order has stated that at the time of appointment of the petitioner on 31.05.2011, only G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009 was in force and G.O.Ms.No.242,



Higher Education Department, dated 18.12.2011 was issued and later was therefore not applicable to the petitioner at the time of the appointment of the petitioner on 31.05.2011. In other words, the very appointment of the petitioner to the post of Assistant Section Officer by the respondents vide Appointment Order dated 17.05.2011 has been questioned by the respondents in their impugned Memo.

7. Appearing for the petitioner the learned counsel referred to the decision of the Full Bench of this Court in Nadar Thanga Shubha Laxman Vs. State of Tamil Nadu, (2014) 3 CTC 433, wherein, this Court held as under:-

"20. In similar circumstances, the learned single Judge of this Court in W.P.(MD)Nos.34457 and 34458 of 2012, dated 28.02.2013 by following the judgment in Chandrakala Tridevi Vs. State of Rajasthan reported in (2012) 3 SCC 129 held as follows:-

"2. In the prospectus issued by the TRB, the eligibility to writ TET was specified in Para 3, wherein it is stated that candidates must have passed Bachelor's Degree (B.A./B.Sc/B.Litt) with Tamil, English, Mathematics, Physics, Chemistry, Botany, Zoology, History and Geography or a degree with any one of the equivalent subjects from a recognized University under 10+2+3 pattern and a Degree in Teacher Education (B.Ed) from a recognized University.

3. In the present case, to the advantage of the petitioners, the State Government has issued G.O(1D)No.333, Higher Education Department, dated 27.11.2012, holding that B.A.Communicative English awarded by Madurai Kamaraj University is equivalent to B.A.English for the purpose of employment in public services. The petitioners also produced several other communications given by the University stating that the B.A.Communicative English is equivalent B.A.English.

4. In this context, it must be noted that the respondents in their prospectus did not advertise only for candidates having exact qualification, it also contemplated persons having an equivalent qualification. The Supreme Court has recognized the distinction between the equivalent and exact qualification vide judgment



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reported in (2012) 3 SCC 129 (Chandrakala Trivedi Vs. State of Rajasthan). In paragraph Nos.8 and 9, it observed as follows:

"8. The word "equivalent" must be given a reasonable meaning. By using the expression "equivalent" one means that there are some degrees of flexibility of adjustment which do not lower the stated requirement. There has to be some difference between what is equivalent and what is exact. Apart from that, after a person is provisionally selected, a certain degree of reasonable expectation of the selection being continued also comes into existence.

9. Considering these aspects of the matter, we are of the view that the appellant should be considered reasonably and the provisional appointment which was given to her should not be cancelled. We order accordingly. However, we make it clear that we are passing this order taking in our view the special facts and circumstances of the case."

21. In yet another judgment of the Apex Court in Udai Singh Dagar Vs Union of India, reported in (2007) 10 SCC 306, while considering almost a similar issue with regard to protecting the rights and privileges of diploma and certificate holders in Veterinary Science, it was held that not only a vested or accrued right but also inchoate right is protected. Strong reliance in this behalf has been placed on a decision in Court of Appeal in Chief Adjudication Officer Vs. Maguire, reported in (1999) 2 All ER 859 (CA). It is relevant to extract paragraph 71 of the above said judgment:-

"71. The expression "unless a different intention appears" contained in Section 6 of the General Clauses Act, thus, in this case, would be clearly attracted. A right, whether inchoate or accrued or acquired right, can be held to be protected provided the right survives. If the right itself does not survive and either expressly or by necessary implication it stands abrogated, the question of applicability of Section 6 of the General Clauses Act would not arise at all. (See banisdhar Vs. State of



Rajasthan, reported in (1989) 2 SCC 557 and Thyssen Stahlunion GmbH Vs Steel Authority of India Ltd. Reported in (1999) 9 SCC 334."

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22. The above observation of the Apex Court clearly answers the doubt raised in this Reference that a right whether inchoate or accrued or acquired right can be held to be protected, provided the right survives. In the light of the said principle, if the case on hand is considered, admittedly, the equivalence committee has considered and approved the equivalent nature of the degree and certificate obtained by the candidates. Similarly, the Government Order issued by the Government also agrees with the validity of the degree, therefore, from the date the degree was obtained by the candidate, the right is accrued, hence the same should be protected. While so, giving a different meaning that the validity of the degree will have prospective effect or retrospective effect is uncalled for. To make it even further clear, we wish to mention at the risk of repetition that when both the equivalence committee and the Government Order issued by the State Government have not chosen to restrict the validity of the degree obtained in any one of their orders, it goes without saying that the validity of the degree from the date of acquisition will stand to benefit the candidates, therefore, the question of introducing the prospective or retrospective ruling will tantamount to violent interpretation against the settled legal position. In this context, it is useful to refer to the judgment of the Apex Court in the case of B.S.Vadera Vs. Union of India reported in AIR 1969 SC 118, wherein, the law is well declared that an accrued and acquired right of a person cannot be taken away with retrospective effect.

23. Also, in the present case, neither the Equivalence Committee nor the Government Orders in G.O.Ms.Nos.72, dated 30.4.2013 and 117, dated 2.7.2013, confined the validity of the Degree obtained by the candidates to operate prospectively, therefore, as per the above Judgments, when the vested rights are created from the date of their acquisition of equivalent Degrees, the Respondents cannot take a stand that the Degrees obtained by the petitioners will only have prospective effect from the date of issuance of Equivalence Certificate. When both the Equivalence Committee and the



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Government Order have consistently not mentioned the effect of the validity of the Degree, it is not proper to hold prospective by any one, more so, by the Court. That apart, a Degree or a Certificate issued by any University or competent Educational Authorities always have the effect on par with a Degree issued by a Competent Civil Court. Besides, it is well settled legal position that even an Executing Court cannot go behind its Decree and this principle will mutatis mutandis undoubtedly apply to the case on hand as well."

8. The learned counsel for the petitioner further submits that the petitioner rights are protected under Section 54 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

9. Defending the impugned order, the learned counsel for the respondents submits that the above decision of this Court in Nadar Thanga Shubha Laxman Vs. State of Tamil Nadu, (2014) 3 CTC 433 cannot be applied to the facts of this case in the light of the decision of the Hon'ble Supreme Court in Prakash Chand Meena Vs State of Rajasthan, (2015) 8 SCC 484, wherein, it was held as under:-

"9. Having heard the parties, we have also perused the written submissions filed on behalf of some of them and have perused the judgment of the learned Single Judge and the impugned judgment of the Division Bench. In our considered view, the issue noticed at the outset must be decided on the basis of settled law noticed by learned Single Bench that recruitment process must be completed as per terms and conditions in the advertisement and as per rules existing when the recruitment process began. In the present case, the Division Bench has gone to great lengths in examining the issue whether B.P.Ed. and D.P.Ed. qualifications are equivalent or superior to C.P.Ed. qualification but such exercise cannot help the cause of the respondents who had the option either to cancel the recruitment process if there existed good reasons for the same or to complete it as per terms of advertisement and as per rules. They chose to continue with the recruitment process and hence they cannot be C.A.@S.L.P.(C) Nos.22345-22346/13 permitted to depart from the qualification laid down in the advertisement as well as in the rules which were suitably amended only later in 2011. In such a situation, factual



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justifications cannot change the legal position that respondents acted against law and against the terms of advertisement in treating such applicants successful for appointment to the post of PTI Gr.III who held other qualifications but not the qualification of C.P.Ed. Such candidates had not even submitted separate OMR application form for appointment to the post of PTI Gr.III which was essential as per the terms of advertisement.

10. The candidates who were aware of the advertisement and did not have the qualification of C.P.Ed. also had two options, either to apply only for PTI Gr.II if they had the necessary qualification for that post or to challenge the advertisement that it omitted to mention equivalent or higher qualification along with qualification of C.P.Ed. for the post of PTI Gr.III. Having not challenged the advertisement and having applied for the other post, they could not have subsequently claimed or be granted eligibility on the basis of equivalence clarified or declared subsequently by the State Government. In the matter of eligibility qualification, the equivalent qualification must be recognized as such in the recruitment rules or Government order existing on or before the initiation of recruitment process. In the C.A.@S.L.P.(C)Nos.22345-22346/13 present case, this process was initiated through advertisement inviting application which did not indicate that equivalent or higher qualification holders were eligible to apply nor the equivalent qualifications were reflected in the recruitment rules or Government Orders of the relevant time."

10. The learned counsel for the respondents also referred to the decision of the Hon'ble Supreme Court in Zonal Manager, Bank of India, Zonal Office, Kochi and Others Vs. Aarya K.Babu and Another, 2019 (8) SCC 587 which followed the decision of the Court in Prakash Chand Meena Vs State of Rajasthan, (2015) 8 SCC 484.

11. The learned counsel for the respondents further submits that when the decision was rendered by this Court in Nadar Thanga Shubha Laxman Vs. State of Tamil Nadu, (2014) 3 CTC 433, the clarification of the Hon'ble Supreme Court in the above two decisions were not available. He therefore submits that since the decision of the Full Bench of this Court stands diluted by



these two decisions of the Hon'ble Supreme Court in the above cases, the present Writ Petition was liable to be dismissed.

12. I have considered the arguments advanced by the learned counsel for the petitioner and the learned standing counsel for the first and second respondents and the learned Government Advocate appearing for the third respondent. I have perused the affidavit filed in support of the present Writ Petition and the counter affidavit filed by the respondents. I have also examined the impugned order passed by the first respondent.

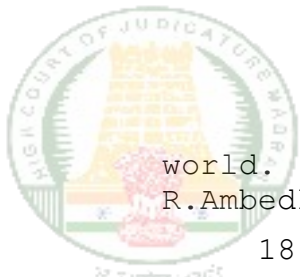
13. The facts are not in dispute. The petitioner has completed his SSLC (10th Standard) in the year 1997 and was unable to continue study in higher secondary school. Under these circumstances, the petitioner qualified himself by pursuing a three year Diploma and thereafter, joined and completed B.A. Political Science through Distance Education offered by the Annamalai University and obtained a degree in the year 2008. The petitioner thereafter applied to the post of Assistant Section Officer with the Tamil Nadu Public Service Commission. The petitioner participated in the written examination and oral test conducted by the Tamil Nadu Public Service Commission for Combined Subordinate Services Examination - 1.

14. The qualification prescribed for the aforesaid posts also includes the Bachelor's Degree with First Class in any one of the parts. There was no embargo in the application called for by the respondents to the petitioner to participate in the written and oral examination conducted by the respondents for the post of Assistant Section Officer.

15. In India, the University of Delhi was the first university to establish School of Correspondence Courses in 1962 as a pilot project. Later, Punjabi University, Patiala set up a Directorate of Correspondence Courses in 1968 and enrolled a large number of students.

16. Later, the Government of India constituted an eight member working group on the proposed Open University in 1974. It is during this period when large number of institutions mushroomed when other universities also established Directorates of Correspondence Courses at their respective institutions. In the south, the State of Andhara Pradesh established the first open university in India as 'Andhra Pradesh Open University' in 1982.

17. During the same year, the International Council of Correspondence Education (ICCE) was renamed as International Council of Distance Education (ICDE) recognizing 'Distance Education' as a Non-Conventional Education System across the



world. Later, Andhra Pradesh University was renamed as Dr.B. R.Ambedkar Open University.

18. To meet the continuous increase in demand of correspondence courses, Government of India made a policy statement for establishment of the Open University in the Country. The Government of India introduced a Bill in the Parliament and it was passed by both Houses in August, 1985. It was named after the late Prime Minister of India Mrs. Indira Gandhi as Indira Gandhi National Open University (IGNOU).

19. One of the study by Mr. Ashok K. Gaba, of School of Vocational Education and Training, Indira Gandhi National Open University, New Delhi (India) and Mr/Ms. Wei Li of Institute of Education Studies, The Open University of China, Beijing (China in their seminal paper published in Open Praxis, vol. 7 issue 4, October-December 2015, pp. 311-323 (ISSN 2304-070X) ICDE Prizes for Innovation and Best Practice (2nd edition)) estimated that about 3 million students had enrolled in more than 225 programmes in this university and more than 220 dual mode universities/institutions, 15 Open Universities (1 national and 14 state open universities) and some private institutions recognized by University Grants Commission (UGC) were offering correspondence/open and distance learning programmes in the country till 2012. In this paper, they have indicated that IGNOU was playing a dual role as an apex body in the country through Distance Education Council (DEC).

20. In the State of Tamil nadu, Annamalai University from where the petitioner obtained the said qualification was a pioneer in distance education.

21. The Hon'ble Supreme Court in Chandrakala Trivedi Vs. State of Rajasthan, (2012) 3 SCC 129 held that the word "equivalent" must be given a reasonable meaning since the expression "equivalent" means that there are some degrees of flexibility or adjustment which do not lower the stated requirement.

22. The Full Bench of this Court in Nadar Thanga Shubha Laxman Vs. State of Tamil Nadu, (2014) 3 CTC 433 was called upon to answer as to whether the Equivalence Certificate issued by the Committee constituted by the Government, declaring that the degree obtained from one University was equivalent to the degree obtained from yet another University was only prospective in operation and answered the issue ultimately as follows:-

23. Also, in the present case, neither the Equivalence Committee nor the Government Orders in G.O.Ms.Nos.72, dated 30.04.2013 and 117, dated 02.07.2013, confined the validity of the degree obtained by the candidates to operate



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prospectively, therefore, as per the above judgments, when the vested rights are created from the date of their acquisition of equivalent degrees, the respondents cannot take a stand that the degrees obtained by the petitioners will only have prospective effect from the date of issuance of Equivalence Certificate. When both the Equivalence Committee and the Government Order have consistently not mentioned the effect of the validity of the degree, it is not proper to hold prospective by any one, more so, by the Court. That apart, a degree or a certificate issued by any University or competent educational authorities always have the effect on par with a decree issued by a competent civil court. Besides, it is well settled legal position that even an executing court cannot go behind its decree and this principle will mutatis mutandis undoubtedly apply to the case on hand as well.

23. The Hon'ble Supreme Court in Prakash Chand Meena Vs. State of Rajasthan, (2015) 8 SCC 484, while dealing with the similar issue, has observed that in the matter of eligibility qualification, the equivalent qualification must be recognised as such in the recruitment rules or Government Order existing on or before the initiation of recruitment process.

24. When the petitioner applied to the post of Assistant Section Officer with the respondents even, G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009 was in not force. As per said G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009, only those who completed SSLC, +2 and thereafter had pursued Under Graduation (U.G.) through open university were entitled to be considered for appointment in the Government Services.

25. Prior to issue of G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009, G.O.Ms. No.180, Personnel and Administrative Reforms (M) Department, dated 11.09.2000 was issued. As per G.O.Ms.No.180, Personal and Administrative Reforms (R) Department, dated 11.09.2000, Diploma, Graduation and Post Graduation through Open University System were treated on par with Regular Stream for the purpose of employment in Public Service.

26. Later, by Government Letter No.107271/E2/91-6, Education, dated 27.04.1993, M.A. Degree obtained from Open University of Mysore University was also recognised for the purpose of grant of incentive increments in terms of



G.O.Ms.No.42, Education, dated 10.01.1969.

27. G.O.Ms.No.307, Education Department, dated 15.12.2000 was issued in the light of the observation in paragraph No.2(V) (3) of G.O.Ms.No.1032, Education, dated 22.06.1971. It stated that even a person who had directly obtained Post Graduation from Open Universities without basic Under Graduation can be given incentive increments in terms of G.O.Ms.No.42, Education, dated 10.01.1969 as amended G.O.Ms.No.1024, Education, Science and Technology Department, dated 09.12.1993.

28. G.O.Ms.No.307, Education Department, dated 15.12.2000 thus recognized that Post Graduate Degree such as M.A./M.Sc. Degree obtained through Open Universities were also to be treated on par with Regular Stream for the purpose of granting incentive increments.

29. It is noticed that while rescinding G.O.Ms.No.307, Education Department, dated 15.12.2000, the Government noted that many of the teachers who had obtained Post Graduation directly from Open University System without basic Under Graduation were working without even proper qualification.

30. It doubted the rationale for extending incentive increments particularly in the field of education as these teachers did not have the required basic qualification. The Government through the Education Department therefore accepted the recommendation of the Director of School Education to withdraw the incentive as these teachers had obtained Post Graduation directly from Open Universities without obtaining basic Under Graduation and did not possess the required basic qualification and therefore opined that the incentive increments given in terms of G.O.Ms.No.42, Education, dated 10.01.1969 as amended G.O.Ms.No.1024, Education, Science and Technology Department, dated 09.12.1993 as made applicable vide G.O.Ms.No.307, Education Department, dated 15.12.2000 was to be withdrawn.

31. Though G.O.Ms. Referred in these Paragraphs Nos.16 to 30 were in the context of education, they show the policy of the decision of the Government. Certain restrictions were placed for grant of incentive to teachers alone.

32. Post facto, vide G.O.Ms.242, Higher Education (B1) Department, dated 18.12.2012 after the petitioner was appointed as an Assistant Section officer, it was clarified that those who have studied 3 years diploma after completing their 10th Standard (SSLC), graduation through Open University and Colleges (10 + 3 + 3) will be treated on par with those who have studied 10th Standard, 12th Standard and Under Graduation (10 + 2 + 3 pattern)



for appointment and promotion. It was issued after the petitioner was appointed as an Assistant Section officer.

33. Thus, the question to be answered is whether prior to issue of G.O.Ms.242, Higher Education (B1) Department, dated 18.12.2012 and G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009, the qualification of the petitioner by passing 10th Standard (SSLC), obtaining 3 year Diploma in lieu of Higher Secondary Certificate and thereafter obtaining Under Graduate from Annamalai University through distance education can be said to be qualified.

34. Prior to issue of G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009, G.O.Ms.No.180, Personal and Administrative Reforms (R) Department, dated 11.09.2000 clarified that Diploma, Graduation and Post Graduation through Open University System were treated on par with Regular Stream for the purpose of employment in Public Service. G.O.Ms.No.180, Personal and Administrative Reforms (R) Department, dated 11.09.2000 is re-produced below:-

4. குழுவின் பரிந்துரைகளை அரசு தீவிர பரிசீலனைக்குப் பின் ஏற்றுக் கொள்ள முடிவெடுத்துள்ளது. அவ்வாறே, தமிழ்நாட்டிலுள்ள பல்கலைக்கழக மான்யக் குழுவால் அங்கீகரிக்கப்பட்ட பல்கலைக்கழகங்களால் திறந்தவெளி பல்கலைக்கழக முறை மூலம் வழங்கப்படும் பட்டயப்படிப்பு, பட்டப்படிப்பு மற்றும் முதுநிலைப் பட்டப்படிப்புகளை அப்பல்கலைக்கழகங்களால் முறையாக வழங்கப்படும் பட்டயப்படிப்பு, பட்டப்படிப்பு மற்றும் முதுநிலைப் பட்டப்படிப்பு ஆகியவற்றுக்குச் சமமாகக் கருதி பொதுப்பணிகளில் வேலைவாய்ப்பிற்கு அங்கீகாரம் அளித்து அரசு ஆணையிடுகிறது.

35. This was reiterated in G.O.Ms.No.217, Personnel and Administrative Reforms (K) Department, dated 08.09.2007. The content of G.O.Ms.No.217, Personnel and Administrative Reforms (K) Department, dated 08.09.2007 is reproduced below:-

ABSTRACT

Public Services - Qualifications - Recognition of Course awarded under Open University System by Tamil Nadu Open University as equivalent to the corresponding awards of other Universities in the State under regular stream for the purpose of employment in public services - clarification - issued.

PERSONNEL AND ADMINISTRATIVE REFORMS (K) DEPARTMENT

G.O.Ms.No. 217

Dated : 08.09.2007

1. G.O.Ms.180, Personnel and Administrative Reforms (R), Department, dt. 11.09.2000.



2. From the Registrar, Tamil Nadu Open University
Letter F.No.16(2)/Misc/2003, dt. 27.2.07.

ORDER:

In the Government order first read above, it has been ordered that the Diploma / Under Graduate / Post Graduate Degree Courses offered by the Universities recognised by the University Grands Commission through open university system shall be considered as equivalent to Diploma / Under Graduate / Post Graduate Degree courses offered by those Universities under regular stream for the purpose of employment in public services.

2. In the letter second and read above, the Registrar, Tamil Nadu Open University has requested to issue an order to the effect that the Certificates / Diploma / Degree and Post Graduate Degree conferred by Tamil Nadu Open University shall be treated as equivalent to the corresponding awards of other Universities in the State under regular stream, for the purpose of employment in public services.

3. The Government have examined the matter in detail and decided to issue a clarification based on the orders issued in the Government order first read above. Accordingly, the Government direct that the Diploma / Under Graduate / Post Graduate Degree Courses offered by the Tamil Nadu Open University shall be treated as equivalent to the corresponding awards of the other Universities in the State under regular stream for the purpose of employment in public services.

//BY ORDER OF THE GOVERNOR//

T.S.SRIDHAR
SPECIAL COMMISSIONER AND
SECRETARY TO GOVERNMENT

36. Thus, the petitioner's appointment as an Assistant Section Officer is governed by G.O.Ms.No.180, Personal and Administrative Reforms (R) Department, dated 11.09.2000. As per the decision of the Hon'b'le Supreme Court in Prakash Chand Meena Vs State of Rajasthan, (2015) 8 SCC 484, the petitioner was holding a valid qualification to be appointed to the post of Assistant Section Officer with the respondents.

37. If the petitioner's appointment as an Assistant Section Officer was valid in the year 2011 in the recruitment proceeding called for in 2008, the request of the petitioner for being



considered to be promoted as a Section Officer cannot be denied on the ground stated in the impugned order dated 04.07.2016. At the same time, since the petitioner had not completed six years service as an Assistant Section Officer, no fault can be attributed in the communication dated 08.01.2016 of the second respondent. As and when the petitioner would have completed 6 years as an Assistant Section Officer, he is entitled to be promoted as a Section Officer.

38. In the light of the above, it is held that the petitioner's appointment to the post of Assistant Section Officer in terms of notification in Advertisement No.176 dated 10.11.2008 of the respondents was valid.

39. This Writ Petition is therefore allowed with the above observations. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

jen

To

- 1.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, Park Town, Chennai - 3.
- 2.The Joint Secretary,
Tamilnadu Public Service Commission,
Frazer Bridge Road, Part Town, Chennai - 3.
- 3.The Secretary,
Personnel and Administrative Reforms Department,
Fort St.George, Chennai - 600009.

+1cc to Mr.L.Chandra Kumar, Advocate, S.R.No.40943
+1cc to Mr.Karthik Rajan, Advocate, S.R.No.40858
+1cc to the Government Pleader, S.R.No. 40943

W.P.No.24287 of 2016

and

W.M.P.Nos.20772 of 2016

and 14030 of 2017

PCH(CO)
GN(14/09/2021)