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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2021

CORAM:

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.NO.17575 OF 2021
AND WMP.NO.18696 OF 2021

R.Palanivel

... Petitioner

vs

1. The Director of Municipal Administration,
Ezhilagam, Chepauk, Chennai 600 005.

2. The Commissioner,
Erode Corporation, Erode.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent in Na.Ka.No.C1/2244/2020 dated 30.07.2021 and quash the same as being against the law laid down by the Hon'ble Supreme Court in Md.Naseem Baig and Others vs. All India Council for Technical Education and Others in W.P.(C) No.1341 of 2019 dated 18.09.2020 and the Judgment of the Hon'ble Division Bench in W.A.No.3884 of 2019 dated 04.02.2021 and direct the respondents to re-designate the petitioner from the post of Junior Engineer to the post of Assistant Engineer with effect from 20.02.2019 with all service and monetary benefits.

For Petitioner : M/s.Dakshayani Reddy for
P.Rajavel

For R1 : Mr.L.S.M.Hasan Fizal
Government Advocate.

For R2 : Mr.Rajamathivanan
Standing counsel



O R D E R

Heard the learned counsel for the petitioner and the respondents.

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2. The petitioner has obtained B.Tech through Distance Education in Engineering Technology through Karnataka State Open University, Mysore - 570 006. The petitioner enrolled for the above said B.Tech during the year 2011-12 and completed the same in the year 2013-2014. The Government of Tamil Nadu vide G.O.Ms.No.39 dated 30.04.2014 has recognized the degrees conferred by the Karnataka State Open University, Mysore-570 006. (State University vide Serial No.233 to Schedule II to the General Rules in Part II of the Tamil Nadu State and Subordinate Services Rules (Volume 1 of the Tamil Nadu Service Manual, 1987).

3. The only reason given in the impugned order for denying the benefit of being promoted as an Assistant Engineer is that as per G.O.Ms.No.149 dated 22.07.2016, Higher Education (J2) Department, Diploma / B.E. Degree qualification acquired through Distance Education was not equivalent and therefore the petitioner cannot be appointed to the post of Assistant Engineer.

4. This issue is squarely covered by the decision of the Division Bench of this Court in W.A.No.3884 of 2019, The Chief Engineer/Personnel Tamil Nadu Electricity Board/TANEDCO, 8th Floor, NPKRR Maaligai, TNEB Complex, 144, Anna Salai, Chennai 600 0-2 and another vs. A.C.Selvamani and 17 Others rendered in the context of the candidates who qualified themselves from the Indira Gandhi National Open University. In para 7 of the said Judgment dated 04.02.2021, it has been held as follows:-

" 7. Today, when the writ appeal as well as writ petitions were taken up for hearing, it is stated by the learned counsel for AICTE that the said judgment applies to the case of the writ petitioners herein. It is further stated that as per the decision of the Honourable Supreme Court, AICTE recognises the decree and diploma awarded by IGNOU through distance education to the candidates who were enrolled with IGNOU upto the academic sessions 2010-2011 and 2011-2012 and no further separate order needs to be issued by AICTE."

5. The Division Bench has followed the earlier decisions of the Honourable Supreme Court rendered in Jawaharlal Nehru Technological University, Registrar vs. The Chairman and Managing Director Transmission Corporation of Telegana Ltd and Others in Civil Appeal Nos.3697 - 3698 of 2018, vide order dated



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10.04.2018, wherein it has been held as under:-

" 5. Shri R. Venkataramani, learned Senior counsel appearing for the original writ petitioners submitted that degree to be granted has to be the one recognized by the UGC under Section 22 of the UGC Act. It is also pointed out that under Section 6(e) of the Andhra Pradesh Education Act, 1982, norms of AICTE are fully applicable to award of Diplomas.

6. While we find merit in the submission of learned counsel for the respondents that the view taken by the High Court is correct in law, in view of distinguishing features in the present case noted in the order issuing notice, while directing that norms must be followed in future, the degrees and diplomas in question already granted by the appellant - University to candidates admitted up to academic year 2009-2010 may be left undisturbed. To this extent, the impugned order stands modified".

6. This views was followed by the Hon'ble Supreme Court later in Mukul Kumar Sharma & Others vs. All India Council for Technical Education & Others in WP(C).No.382 of 2018 by its order dated 30.07.2018 and by another decision of the Hon'ble Supreme Court in Md. Naseem Baig and Others vs. All India Council for Technical Education and Others in W.P.(C)No.1341 of 2019. By its order dated 18.09.2020, wherein it has been held as under:

"We had, vide order dated 11.03.2019, stated that degrees and diplomas of IGNOU in such distance education courses up to the years 2009-10 be left undisturbed. We grant the same relief to the petitioners who will be covered in the years 2010-11 and 2011-12.

We make it clear that since there is no distance education courses in IGNOU after these years and these are the last batches who will be granted the reliefs that were granted by our order dated 11.03.2019, as a one time measure therefore, these batches will also be granted this relief. We allow this writ petition with no order as to costs."



7. This view has been interpreted by the Division Bench of this Court as referred supra in the case of The Chief Engineer/Personnel and others vs. A.C.Selvamani & 17 Others. The Division Bench has categorically held that AICTE recognises the degree and diploma awarded by IGNOU through Distance Education to the candidates who were enrollment with IGNOU upto the academic sessions 2010-2011 and 2011-2012 would apply.

8. The facts of the case indicate that the petitioner had already enrolled with the Karnataka State Open University during the year 2011-2012 and completed in the year 2013-2014. That being the case, the petitioner is entitled for the relief sought for in the present writ petition.

9. Accordingly the writ petition stands allowed. The respondents are therefore directed to implement this order, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkd

To

1. The Director of Municipal Administration,
Ezhilagam, Chepauk, Chennai 600 005.
2. The Commissioner,
Erode Corporation, Erode.

+1cc to Mr.P.Rajavel, Advocate, S.R.No.44134
+1cc to Mr.Rajamathivanan, Advocate, S.R.No.44133
+1cc to the Government Pleader, S.R.No.44620

W.P.No.17575 of 2021

PM(CO)
PM/06/10/2021