



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.10307 of 2011

and

M.P(MD)Nos.1 and 2 of 2011&1 of 2015

WEB COPY

N.Ravikumar

... Petitioner

Vs.

1.The Secretary to Government,
Differently Abled Persons Welfare Department,
Secretariat, Chennai - 9.

2.The State Commissioner
for Differently Abled,
Thousand Lights,
Chennai - 6.

3.E.Bommi.

4.S.Kamatchi

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of certiorarified mandamus, calling for the records relating to the impugned orders passed by the 2nd respondent in ROC.No.5400/Admin1/2010, dated 30.08.2011 and quash the same and consequently direct the 1st and 2nd respondents to include/replace the petitioner's name in the Panel for the Post of Junior Rehabilitation Officer by placing the petitioner over and above the 3rd respondents.

For Petitioner	:	Mr.L.George Paul Anto
For Respondent	:	Mr.M.Muthugeethaiyan,
Nos.1& 2		Special Government Pleader
For Respondent	:	No appearance
Nos. 3 & 4		

ORDER

This writ petition has been filed seeking to quash the impugned orders passed by the 2nd respondent in ROC.No.5400/Admin1/2010, dated 30.08.2011 and consequently to direct the 1st and 2nd respondents to include/replace the petitioner's name in the Panel for the Post of Junior Rehabilitation Officer by placing the petitioner over and above the 3rd respondents.

2.The case of the petitioner is that he was recruited through Employment Exchange for the post of Multipurpose Rehabilitation Aide and his date of regularisation was on 21.06.1989. The petitioner has completed his 12th standard and underwent the Certificate Course in Physio Technician / Physio Assistant/ Rehabilitation Aide and the



petitioner on the date of filing of the writ petition was serving in the same post nearly for 21 years in the District Differently Abled Welfare Office, Kanyakumari District.

3.The Post of Junior Rehabilitation Officer is through direct recruitment and by promotion from the post of Vocational Instructor, Orthotic Technicians and Multipurpose Rehabilitation Aide are given fixation as Ratio 1:3:1 for the promotion to the post of Junior Rehabilitation Officer.

4.While so, vide G.O (Ms)No.14 Welfare of Differently Abled Persons Department, dated 25.05.2010 an amendment has been made and clearly stated that the eligibility for the promotion of the post of Junior Rehabilitation Officer by the Vocational Instructors, Orthotic Technicians and Multipurpose Rehabilitation Aides that they must have Post Graduate Degree in Psychology /Social Work/ Sociology along with 10 years of experience as Vocational Instructor.

5.Based on the G.O (Ms)No.14 Welfare of Differently Abled Persons Department, dated 25.05.2010, the 2nd respondent vide proceedings in Roc.No.5400/Admin1/2010, dated 10.06.2010 published a seniority list of Vocational Instructors, Orthotic Technicians and Multiple Rehabilitation Aides. The petitioner's name has been included in the combined seniority list in S.No.33. Therefore, challenging the fixation of ratio of the seniority in 1:3:1 for the Vocational Instructor/ Orthotic Technicians and Multiple Rehabilitation Aides for the Promotion of the Post of Junior Rehabilitation Officer, the present writ petition has been filed.

6.The learned Counsel for the petitioner fairly admitted that the petitioner did not possess the post graduate degree, but he is having more than 10 years of experience as Vocational Instructor. When the experience itself is sufficient for promotion to the post of Junior Rehabilitation Officer, the impugned seniority of the 2nd respondent is *non est* in the eye of law and the same is contrary to the said G.O (Ms)No.14 Welfare of Differently Abled Persons Department, dated 25.05.2010 and therefore, the learned Counsel prayed that the petitioner is eligible to be promoted as Junior Rehabilitation Officer and therefore, prays for allowing this writ petition.

7.The learned Special Government Pleader appearing for the respondent submitted that in G.O.Ms.No.14, dated 25.05.2010 amendment has been made and clearly stated about the eligibility for the promotion to the post of Junior Rehabilitation Officer by the Vocational Instructors, Orthotic Technician and Multipurpose Rehabilitation Aides. The petitioner has suppressed the fact that he did not possess a Post Graduate Degree in Psychology or Social Work or Sociology and his juniors 3rd and 4th respondents were promoted as Junior Rehabilitation Officer based on the fact that they possessed a Post Graduate Degree in Sociology, which is one of the



eligibility criteria for promotion.

8.The learned Special Government Pleader further submitted that even though the writ petitioner has worked for more than fifteen years, the petitioner did not possess post graduate degree in Psychology /Sociology /Social work as mentioned in the Amendment in G.O.Ms.No.14 dated 25.05.2010, which is yet another qualification as required and it is also mandatory to become eligible for promotion to the post of Junior Rehabilitation Officer. This above said fact was not mentioned in the writ petition and affidavit, which is malafide and the petitioner has not come to the Court with clean hands.

9.The learned Special Government Pleader further submitted that it is well settled law that the promotion cannot be claimed as a right when he has no requisite qualification. The petitioner has suppressed the vital fact that till date he did not possess post graduate degree in Psychology or Social Work or Sociology when his junior's were promoted as Junior Rehabilitation Officer and joined duty on 19.09.2011 and 19.11.2011. Therefore, the prayer of the petitioner deserves no consideration and he is not entitled to challenge the orders passed by the 2nd respondent in Roc.No.5400/Admin-1/2010, dated 30.08.2011 and the same is liable to be dismissed in *limine* and the issue is also covered by the decision of the Hon'ble Supreme Court in the case ***Annamalai University Vs. Secretary to Government, Information and Tourism Department***, reported in **2009 4 SCC 590**.

10.Heard the learned Counsel on either side and perused the materials placed on record.

11.Admittedly the petitioner has joined duty as Multipurpose Rehabilitation Aide. As per G.O (Ms)No.14 Welfare of Differently Abled Persons Department, dated 25.05.2010, the feeder category for promotion to the post of Junior Rehabilitation Officer is Vocational Instructors, Orthotic Technician and Multipurpose Rehabilitation Aide. For better appreciation the said Government order is extracted hereunder

"Notification

In exercise of powers conferred by the Provisio to Article 309 of the Constitution of India, the Governor of Tamil Nadu hereby makes the following amendment to the rules published with the Social Welfare Department Notification S.R.O.B.231/86, dated the 18th April 1986 at pages, 304 - 308 of part III Section 1(b) of the Tamil Nadu Government Gazette, dated 21st May 1986.

2.The amendment hereby made shall come into force on the 25th May 2010.



Amendment

In the said rules, in rule 5, in sub-rule(b), in the Table, in coloumn (2) and (3) against the post, "Junior Rehabilitation Officer" in coloumn (1) of the entries "By promotion from the posts of Vocational Instructor, Orthotic Technician and Multipurpose Rehabilitation Aide" in coloumn (2) and the corresponding entries coloumn (3) there of the following entries shall be substituted, namely :-

2	(i) " By promotion from the post of Orthotic Technician	Must possess experience for ten years Orthotic Technician
	(ii) By promotion from the posts of Vocational Instructor and Multipurpose Rehabilitation Aide	(i) Post Graduate degree in Psychology or Social Work or Sociology (ii) Must possess experience for ten years as Vocational Instructor (or) (iii) Must possess experience for fifteen years as Multipurpose Rehabilitation Aide in District Differently Abled Welfare Offices under the control of the State Commissionerate for the Differently Abled persons.

12. On perusal of the above Government Order it is seen that the promotion to the post of Junior Rehabilitation Officer from the feeder category of Vocational Instructor with 10 years of experience along with Post Graduate degree in Psychology or Social Work or Sociology. Though the petitioner claims that he possess 10 years of experience as Vocational Instructor, he did not possess the Post Graduate degree. The basic educational qualification to become Junior Rehabilitation Officer is to be promoted to the post of Junior Rehabilitation Officer



is Post Graduate degree. Admittedly, the petitioner has not possessed any Post Graduate degree as mandated in the said Government Order. When the petitioner does not possess the requisite educational qualification, the impugned seniority list cannot be interfered with. The petitioner without possessing the requisite educational qualification as prescribed in the above said Government Order cannot claim promotion merely on the ground that he has sufficient experience.

13. In the light of the above discussion, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitioner are also dismissed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)

To:-

1. The Secretary to Government,
Differently Abled Persons Welfare Department,
Secretariat, Chennai - 9.

2. The State Commissioner
for Differently Abled,
Thousand Lights,
Chennai - 6.

+1 CC to M/s.SPL GP (SR-4292[F] dated 10/02/2021)

+1 CC to M/s.L.GEORGE PAUL ANTO, Advocate (SR-4527[F] dated 11/02/2021)

W.P(MD)No.10307 of 2011
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KB(24.02.2021) 5P 5C