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W.P.(MD)Nos.7278 to 7281 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)Nos.7278 to 7281 of 2012

and

W.M.P (MD) Nos.1,1,1,1,2,2,2,2,3,3,3 and 3 of 2012

T.V.Murugan ... Petitioner in W.P(MD)No.7278/2012
R.Malathi ... Petitioner in W.P(MD)No.7279/2012
M.Kanipaul ... Petitioner in W.P(MD)No.7280/2012
C.Sivaperuman ... Petitioner in W.P(MD)No.7281/2012

Vs.

1. The Registrar of Cooperative Societies,
170,Periyar EVR Highways,
Kilpauk, Chennai-600 010.

2.Deputy Registrar/Special Officer,
Kanyakumari District Central Cooperative Bank,
Alexandra Press Road,
Nagercoil - 629 001,
Kanyakumari District.

.. Respondents in all writ petitions

Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, for issuance of a writ of certiorari, to call for the records relating to the impugned proceedings issued by the first respondent Registrar vide Na.Ka.No.26539/2012/Ma.Va.Pa.1 dated 14.05.2012 directing the second respondent Deputy Registrar/Special Officer to pass orders reverting the petitioner from the post of Assistant to that of Sub Staff and quash the same.

In all writ petitions:

For Petitioner : Mr.K.Prabhu
for M/s.S.Xavier Rajini

For Respondent No.1 : Mr.C.M.Marichelliah Prabu
Additional Government Pleader

For Respondent No.2 : Mrs.Sasikala Subramaniam



COMMON ORDER

Since the issue involved in these writ petitions are one and the same, these writ petitions are taken up together and disposed of by a common order.

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2. These writ petitions have been filed against the impugned proceedings issued by the first respondent Registrar vide Na.Ka.No.26539/2012/Ma.Va.Pa.1, dated 14.05.2012, directing the second respondent Deputy Registrar/Special Officer to pass orders reverting the petitioner from the post of Assistant to that of Sub Staff.

3.The facts of the case are as follows:

i) The petitioner in W.P.(MD).No.7278 of 2012 was entered into service as a Sub-staff (Peon) in the year 1998. Before entering into service, he completed 10th standard in the year 1986 and completed 12th Standard in the year 2001. Thereafter, he completed Diploma in Co-operative Training in the year 2002 and M.Com., (Co-operative Management) through Distance Education mode in the year 2004. Thereafter, the petitioner was promoted as Assistant in the year 2008.

ii) The petitioner in W.P.(MD).No.7279 of 2012 was entered into into service as a Sub-staff in the year 1994. Before entering services, she completed 10th standard in the year 1989. She did not even study 12th Standard. Thereafter, she completed Diploma in Co-operative Training in the year 1997 and M.A,(History) through Distance Education mode in the year 2004. Thereafter, the petitioner was promoted as Assistant in the year 2008.

iii) The petitioner in W.P.(MD).No.7280 of 2012 was entered into service as a Sub-staff (Peon) in the year 1998. At the time of entering into service as well as after entering into service, he did not complete 10th standard and 12th Standard. Thereafter, he completed Diploma in Co-operative Training in the year 2004 and M.A., (History) through Distance Education mode in the year 2003. Thereafter, the petitioner was promoted as Assistant in the year 2008.

iv) The petitioner in W.P.(MD).No.7281 of 2012 was entered into service as a Sub-staff (Peon) in the year 1998. At the time of entering into service as well as after entering into service, he did not complete 10th standard and 12th Standard. Thereafter, he completed Diploma in Co-operative Training in the year 2002 and M.A., (Gandhian Thought) through Distance Education mode in the year 2001. Thereafter, the petitioner was promoted as Assistant in the year 2008.



3.2. That being the case, one Arumugapillai, who was appointed as a Special staff in the year 2000 on Compassionate ground and promoted as Assistant on 12.12.2008, made a representation to the first respondent alleging that the present writ petitioners did not possess the required qualification for promotion to the post of Assistant and hence, their promotion was wrong due to which his seniority was affected and further requesting to cancel the petitioners' promotion. He also filed a writ of mandamus in W.P.(MD)No.29864 of 2011 seeking a direction to the first respondent to consider his representation dated 08.12.2011 and this Court, by its order, dated 23.12.2011 issued a direction to the first respondent to consider the representation dated 08.12.2011 and pass orders within a period of twelve weeks after affording necessary opportunity to the parties concerned. In compliance with the said order, the first respondent issued a proceedings, dated 25.04.2012 calling upon the present writ petitioners to attend personal hearing with regard to the representation submitted by the said Arumugapillai. However, the petitioner in W.P.(MD)No.7278 of 2012, namely, T.V.Murugan, was neither called for personal hearing, nor a copy of the proceedings was marked or communicated to T.V.Murugan. Thereafter, the other three petitioners submitted their explanations on 30.04.2012 stating that they possess the required qualification for the promotion to the post of Assistant. Thereafter, the first respondent instructed the second respondent to obtain the explanation from T.V.Murugan and hence, he submitted his explanation on 03.05.2012.

3.3. However the first respondent issued another impugned proceedings dated 14.05.2012 addressed to the second respondent/Special Officer directing him to cancel the promotion given to the present writ petitioners on the ground that the petitioners were not eligible for promotion in view of the instructions given under G.O.Ms.No.107 (Personnel and Administrative Reforms-M) Department, dated 18.08.2009. Challenging the same, the present writ petitions are filed.

4. The learned counsel for the petitioners in these petitions would submit that at the time of the petitioners' promotion as Assistants, the qualification for the said post, under the bye-laws of the second respondent Central Co-operative Bank, was any degree under any discipline awarded by any recognized University along with Diploma in Co-operative Management. Since the petitioners possessed the said qualifications as per the bye-law of the respondent Bank, they were promoted as Assistants in the year 2008. Subsequently G.O.Ms.No.107 (Personnel and Administrative Reforms-M) Department, dated 18.08.2009 was issued, based on which internal communication of the first respondent dated 14.05.2012 directing the second respondent to cancel the petitioners' promotion, is invalid and he further contend that G.O.Ms.No.107 (Personnel and Administrative Reforms-M) Department, dated 18.08.2009, came to be issued much later to the date of promotion of the petitioners, hence, the



respondents cannot retrospectively apply the same to the petitioners' case. Hence, the internal communication in between the first and second respondent, which is impugned in these writ petitions, is bad in law and accordingly he prays for dismissal.

5. The learned Additional Government Pleader would submit that pursuant to the impugned internal communication in between the first and second respondent, no orders was passed against the petitioners. Hence, without passing any orders on the said communication, challenging the said communication between the first and second respondent is not maintainable. Further, the learned Additional Government Pleader would submit that the petitioners have not obtained the degree as per the pattern prescribed by the University Grants Commission regulations, ie., 10+2+3 pattern. However, in the present case, except one petitioner, three petitioners did not completed 10th standard and 12th standard and all of them directly obtained Master Degree without obtaining any UG Degree, which is invalid one as per the above said UGC regulations. Hence, he contended that these writ petitions are not maintainable and prays for dismissal.

6. Considering the facts and circumstances, admittedly, except one writ petitioner, namely, T.V.Murugan, other petitioners have not even completed 12th Standard and without obtaining UG degree, they directly obtained PG degree through Distance Education mode. Hence, the writ petitioners have not obtained the degree as per the pattern prescribed by the University Grants Commission regulations, i.e., 10+2+3. Thus, the petitioners' qualification cannot be recognized as a valid degree as per the judgment of the Supreme Court of India and in the case of **ANNAMALAI UNIVERSITY represented by Registrar Vs. SIBI MADAN GABRIEL and others**, reported in **(2009) 4 SCC 590**. The Hon'ble Supreme Court of India dealt with the validity of the degree obtained in contravention to the pattern prescribed in the University Grants Commission Regulations, and held that such Degrees are invalid.

7. Therefore, the degree obtained through Open University, without completing the SSLC, +2 in order, are invalid and such degree cannot be considered for promotion to the post of Assistant. This being the authoritative pronouncement of the Hon'ble Supreme Court of India, in the matter of recognizing the degree for recruitment and promotion, the qualifications possessed by the writ petitioners are invalid. Thus, the internal communication, which is impugned in these writ petitions cannot be interfered with by this Court, in view of the fact that the writ petitioners are not qualified for promotion to the post of Assistant.

8. Accordingly, no further consideration of the ground raised in these writ petitions need to be undertaken. Hence, these writ petitions are dismissed. However, no order as to costs.



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Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Registrar of Cooperative Societies,
170, Periyar EVR Highways,
Kilpauk, Chennai-600 010.

2. Deputy Registrar/Special Officer,
Kanyakumari District Central Cooperative Bank,
Alexandra Press Road,
Nagercoil-629 001,
Kanyakumari District.

+1 CC to M/s.GP (SR-3311[F] dated 04/02/2021)

+4 CC to M/s.S.XAVIER RAJINI, Advocate (SR-3390[F], 3392[F], 3393[F], 3394[F])

W.P(MD)Nos.7278 to 7281 of 2012
03.02.2021

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SJ(CO)

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