



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2021

CORAM:

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM

AND

The Hon'ble Mrs.JUSTICE S.ANANTHI

W.A. (MD) .No.471 of 2019

and

C.M.P. (MD) .No.3921 of 2019

1. The Managing Director,
Tamil Nadu Housing Board,
493, Annasalai, Nandanam,
Chennai - 600 035.
2. The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Madurai Housing Unit, Ellis Nagar,
Madurai - 16. ...Appellants

Vs.

1. N.Nagamuthu,
Junior Assistant,
Tamil Nadu Housing Board,
Madurai Housing Unit, Ellis Nagar,
Madurai - 16.
2. State of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Chennai - 9.Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letter Patent, to set aside the order passed in W.P(MD).No.14003 of 2014, dated 21.12.2018.

Prayer in WP(MD) . 14003/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records pertaining to the impugned order of reduction in rank in Executive Proceedings No. Pa.Tho.Nu.A2/18518/07, dated 14.08.2014 on the file of the Respondent No.2 and quash the same as illegal.

For Appellants : Mr.Mahaboob Athif

For Respondents : Mr.T.Lajapathi Roy,
For R1.
R.Baskran,
Standing Counsel for Government
For R2.



J U D G M E N T

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

This writ appeal by the Managing Director of the Tamil Nadu Housing Board, is directed against the order, dated 21.12.2018, passed in W.P(MD).No.14003 of 2014 filed by the first respondent herein.

2.We have heard Mr.Mahaboob Athif, learned Counsel appearing for the appellants and Mr.T.Lajapathi Roy, learned counsel appearing for the first respondent and Mr.R.Baskran, learned Standing Counsel for Government appearing for the second respondent.

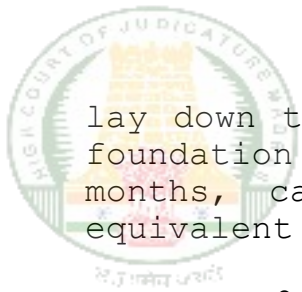
3. The prayer sought for in the writ petition to issue a writ of Certiorari to quash the order of reversion, dated 14.08.2014. The reason assigned in the said order is that the petitioner did not possess the requisite qualification, as he has not undergone the formal school education in 10+2 pattern or 11+1 pattern and he has undergone a pre-foundation course conducted by Madurai Kamaraj University, which was stated to be equivalent to completion of +2 and thereafter, obtained a degree and based on which he was promoted in the year 2012.

4.The fact remains that he continued as such, probably because of the interim order in the writ petition and ultimately retired and attained the age of superannuation in the year 2019 in the post of Junior Assistant.

5.The learned Single Bench allowed the writ petition and held that G.O.Ms.No.528, Personnel & Administrative Reforms (PER.R.) Department, dated 18.05.1985, would come to the aid and assistance of the writ petitioner as the Government in the said order stated that the foundation course is a recognized course as equivalent to the Higher Secondary Course and the said Government order cannot be substituted or repealed by a Government Letter.

6. The position stood clarified by the Government by issuance of GO.Ms.No.144, Personnel Administrative Reforms (M) Department, dated 20.11.2017, wherein, the Government accepted the recommendations of the Equivalence Committee and held that pre-foundation course and foundation course/ bridge courses awarded by various Universities cannot be recognized as equivalent to SSLC and Higher Secondary Course (+2).

7.In the light of the said Government Order, the finding rendered by the learned Writ Court that G.O.Ms.No.528, will continue to aid and assist the candidates like the first respondent, does not



lay down the correct legal principle. A pre-foundation course or a foundation course or a bridge course, probably for three to six months, can at no stretch of imagination, be construed to be equivalent to 10+2 of formal school education.

8. Therefore, we do not agree with the view expressed by the learned Single Bench on the effect of various Government Orders. So far as the relief granted to the first respondent is concerned, we do not propose to disturb the relief, because the order of reversion has been quashed for the reason that the first respondent has continued in the promoted post and further promoted and retired as Junior Assistant.

9. Thus while vacating all the findings rendered by the learned Single Bench in the impugned order, dated 21.12.2018, we sustain the ultimate relief granted by the learned Writ Court in quashing the reversion order and making it clear that the pre-foundation course or foundation course or bridge course offered by any University cannot be treated as equivalent to SSLC or Higher Secondary Course (+2).

10. The writ appeal is allowed to the extent as indicated above. It appears that on account of the pendency of the appeal, the pensionary benefits have not been disbursed to the first respondent in the promoted post. Now that since we have sustained the ultimate relief granted by the learned Writ Court, the appellant Board is directed to settle the pension and other retirement benefits, by construing the petitioner to have functioned in the promoted post, till his retirement. This direction be complied with within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RM

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 Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development Department,
Chennai - 9.

2. The Managing Director,
Tamil Nadu Housing Board,
493, Annasalai, Nandanam,
Chennai - 600 035.

3. The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Madurai Housing Unit, Ellis Nagar,
Madurai - 16.

+1 CC to MR.T.LAJAPATHI ROY, Advocate (SR-23391[F] dated 22/07/2021
)

W.A. (MD) .No.471 of 2019
20.07.2021

MGJ(30.07.2021) 4P 5C