



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.(MD) No. 16648 of 2021

and

W.M.P.(MD) No.13509 of 2021

WEB COPY

K.Muthuchidambaram

... Petitioner

Vs.

The Bharthidasan University,
Rep. by its Registrar,
Palkalaiperur,
Tiruchirappalli - 620 024,
Trichy District.

... Respondent

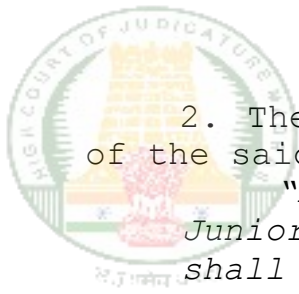
PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of a **Writ of Certiorarified Mandamus**, to call for the records on the file of the respondent pertaining to its order bearing Na.Ka.No.B1/019950/2009 dated 22.02.2021 and quash the same and consequently directing the respondent to grant promotion to the petitioner to the post of Superintendent with effect from December 1997 and the further promotion to the Post Assistant Registrar with effect from December 2002 and Deputy Registrar from 2015 and to grant all service and monitory benefits there from and pass such further or other orders as this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : Mr.V.R.Shanmuganathan,
Standing Counsel for State.

O R D E R

The petitioner was appointed as Junior Assistant in the third respondent University. He was promoted as Assistant in the year 29.11.1989. As the petitioner did not complete Bachelor degree, he was not considered for promotion to the post of Superintendent. Subsequently, the petitioner acquired Post Graduate degree from Annamalai University in the year 1997. The petitioner was considered for promotion to the post of Assistant Registrar after a delay of 13 years, even after completing 5 years of service as Section Officer. The petitioner is now eligible for promotion to the post of Deputy Registrar, but the respondent university has not considered and hence, he has filed the present writ petition before this Court.



2. The respondent has filed a counter affidavit and in para 7 of the said counter, it is stated as follows:

"At least three years of service in the cadre of Junior Assistant. Junior Assistant, who are not Graduates shall be eligible for promotion as Assistants. But shall not be eligible to draw increments until they acquire a degree."

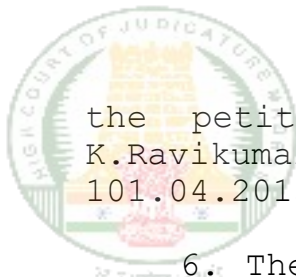
(The Junior Assistant should pass the Account Test for Subordinate Officers Part I conducted by the T.N.P.S.C. to be eligible for promotion. The existing incumbents in the post of Assistants Superintendents and Assistant Registrars should pass Account Test Par I. This will come into effect 5 years from the date of assent of the Statues)

3. In paragraph 8 of the counter affidavit, it is stated as follows:

"A decree and pass in Account test for Subordinate Officers Part-I with not less than five years of service in the cadre of Assistant."

4. In paragraph 10 of the counter affidavit it is stated that a copy of seniority list in the cadre of Section Officer as on 01.04.2009 circulated among the individual is annexed. In the seniority list the petitioner is placed at Sl.No.28. His immediate senior is placed under Sl.Nos.25, 26, 27, who had retired from the cadre of Superintendent/Section Officer itself and they did not get promotion as Assistant Registrar till their retirement. In a similar manner, many of the juniors placed below to the petitioner including the immediate junior Thiru.N.Chandrasekaran under Sl.No.29 had also retired in the cadre of Superintendent itself. It is also noted that the Senior Thiru.S. Venkatesh placed under Sl.No.22 in the seniority list was promoted to the of Assistant Registrar on 29.06.2016 after 19 years, as Superintendent/Section Officer. His immediate junior Thiru.D. Anthuvan Emil was also promoted to the post of Assistant Registrar. Hence it is clearly informed that University administration never delayed promotion to any of its employee and it is all only because of want of vacancy in the respective cadre.

5. The respondent counsel's have also relied upon the judgment in W.A.(MD).NO.642 of 2012, wherein one K. Ravikumar, the appellant acquired B.A. Degree qualification through University of Madras after his 10th standard qualification and he has not completed +2 qualification. It is submitted that obtaining degree through Open University System without undergoing 10+2+3 pattern, was declared as illegal, with effect from 18.08.2009, after the judgment of the Hon'ble Apex Court in **Annamalai University case** reported in **2009 (4) SCC 590**. The said K. Ravikumar has reached the position to the level of Assistant Registrar prior to the above said date. Hence,



the petitioner has no right to claim benefits on par with K.Ravikumar as per the order in W.A.(MD).No.642 of 2012 dated 101.04.2015.

6. The learned counsel for the respondent submitted that as on date, there is no vacancy in the respondent university for promotion to the post of Deputy Registrar. Therefore, the petitioner's request, as of now, cannot be considered for promotion to the post of Deputy Registrar.

7. In the light of the Division Bench Judgment of this Court as well the averments made in the counter affidavit, the writ petitioner was considered to the post of Assistant Registrar with effect from 11.01.2017. Therefore there is no delay on the part of the respondent university. As there is no vacancy in the respondent university for promotion to the post of Deputy Registrar, the petitioner's request cannot be considered at present. This writ petition is premature, misconceived and devoid of merits. Therefore, it is liable to be dismissed as premature.

8. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mnr

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
The Registrar,
The Bharthidasan University,
Palkalaiperur,
Tiruchirappalli - 620 024,
Trichy District.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-30170[F] dated 24/09/2021)

W.P. (MD).No.16648 of 2021