



W.P(MD)Nos..6575 and 6576 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.6575 and 6576 of 2019

W.P.(MD)No.6575 of 2019:-

M.Vigneswari

... Petitioner

Vs.

**1.The Principal Secretary to Government,
Higher Education (I2) Department,
Secretariat, Chennai – 600 009.**

**2.The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai – 600 025.**

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling the records of the first respondent i.e., the Principal Secretary to Government, Higher Education (I2) Department, Chennai passed in his impugned letter No.22175/I2/2018-2 dated 05.02.2019 and quash the same and consequently direct the first respondent i.e., the Principal Secretary to Government, Higher Education (I2) Department, Chennai to post the petitioner as regular Principal in the vacant post in which the petitioner is serving as Principal (In-charge, Government Polytechnic College, Thoothukudi as per the approved list in G.O.No.22 dated 25.01.2018 of Principal for the year 2017-18, within a specified time frame that may be fixed by this Court.



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For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.N.Sathees Kumar,
Addl. Government Pleader.

W.P.(MD)No.6576 of 2019:-

M.Poonkulali

... Petitioner

Vs.

1.The Principal Secretary to Government,
Higher Education (I2) Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai – 600 025.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling the records of the first respondent i.e., the Principal Secretary to Government, Higher Education (I2) Department, Chennai passed in his impugned letter No.22175/I2/2018-2 dated 05.02.2019 and quash the same and consequently direct the first respondent i.e., the Principal Secretary to Government, Higher Education (I2) Department, Chennai to post the petitioner as regular Principal in the vacant post in which the petitioner is serving as Principal (In-charge, Government Polytechnic College, Thekkampatti, Aundipati Taluk, Theni District as per the approved list in G.O.No.22 dated 25.01.2018 of Principal for the year 2017-18, within a specified time frame that may be fixed by this Court.



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For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.N.Sathees Kumar,
Addl. Government Pleader.

COMMON ORDER

Heard the learned counsel on either side.

2.The writ petitioners herein are presently working as Principals in-charge of Government Polytechnic Colleges. Their educational qualification is as follows:-

Sl.No.	Name and Designation	Educational Qualification
01	M.Vigneshwari, Head of Department / Electronics and Communication Engineering, Government Polytechnic College, Tuticorin.	B.E. ECE. I Class, M K University, Nov 1984 M.E. Applied Electronics, May 2022, Bharathiyar University
02	M.Poonkulali, Lecturer / Electronics and Communication Engineering, Government Polytechnic College, Aundipatti.	B.E (Electronics and Instrumentation) May, 1987

3.The Government prepared a panel for granting regular promotion to the post of Principal in the various Government Polytechnic Colleges on



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25.01.2018. The crucial date was 01.03.2017. The petitioners figured in said panel at Serial Nos.33 and 34. However, they were not promoted. Questioning their exclusion, they filed W.P.(MD)Nos.20064 and 20065 of 2018. Vide order dated 26.09.2018, this Court directed the Government to consider their representations. Pursuant to the said direction given on 26.09.2018, the impugned orders dated 05.02.2019 came to be passed by the government rejecting their request. Challenging the same, the present writ petitions came to be filed.

4.The stand taken in the counter affidavits is that when the approved panel was prepared, only thirty vacancies were available. Since the petitioners figured at Serial Nos.33 and 34, they could not be promoted. When it was pointed out by the petitioners that there were five other vacancies apart from the thirty mentioned in the counter affidavits, it was clarified by the respondents that those five vacancies fell in special institutions which required possession of degree in Printing Technology/ Textiles Technology/ Chemical Technology/ Commerce/ Leather Technology. The petitioners admittedly did not possess any such special qualification. Therefore, the question of considering them for the post of Principal in the said special institutions would not arise.



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5.The writ petitioners thereupon filed rejoinder contending that out of thirty persons promoted on 25.01.2018, two of them were posted in the said special institutions. This in my view will not advance the case of the writ petitioners. The primary question that calls for consideration is whether there were only thirty vacancies or the number of vacancies was actually suppressed. I am satisfied that the number of vacancies excluding the special institutions was only thirty and since the petitioners figured at Serial Nos.33 and 34 in the panel, they could not be promoted. Therefore, the orders impugned in these writ petitions cannot be faulted.

6.However, there is considerable merit in the contentions of the learned counsel for the petitioners that the writ petitioners have been denied promotion only by citing G.O.(Ms) No.37, Higher Education (B1) Department, dated 13.02.2018. The Government amended the ad hoc rules and introduced the additional recruitment that the candidate for the post of Principal must also possess Phd from the appropriate discipline of engineering/technology. Since the petitioners do not possess Ph.D degree, they could not be considered as against the subsequent vacancies. G.O.(Ms) No.37, dated 13.02.2018 purports to implement the AICTE regulations made on 05.03.2010. The learned counsel for the petitioners drew my attention to the latest AICTE regulations published



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in Gazette of India No.83, dated 01.03.2019. As per the amended Regulations,

for the post of Principal, the qualification has been set out in Clause 4.7 as

under:-

**“4.7 *Qualifications for Principals*
(Level – 13A1, Entry Pay 131400/- with the special allowance of Rs.4500/- per month)
*(a) Direct Recruitment***

Ph.D and First Class at either Bachelor's or Master's level in the relevant discipline with minimum of 16 years of experience in Teaching / Research Industry, out of which at least 3 years shall be post Ph.D. experience and 5 years of experience not below the level of HoD.

OR

First Class at Bachelor's or Master's level in the relevant discipline and minimum of 20 years of experience in Teaching / Research Industry, out of which 5 years of experience not below the level of HoD.

(b) For promotion of the Incumbent

Ph.D and First Class at Bachelor's or Master's level in the relevant discipline with minimum of 16 years of experience in Teaching / Research Industry out of which at least 5 years shall be at the level of HoD and 3 years shall be post Ph.D Experience; An average 360° feedback score of 5 to < 8 out of 10 for last 5 years.



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OR

First Class at Bachelor's or Master's level in the relevant discipline; minimum of 20 years of experience in Teaching / Research Industry, out of which 7 years shall be not below the level of HoD. An average 360° feedback score of 5 to < 8 out of 10 for last 5 years.

7.The petitioners *prima facie* would qualify to be promoted under amended regulations. Unfortunately for the petitioners, the amended regulations are yet to be given effect by passing a government order. There is no dispute that the qualification prescribed by the Government in the ad hoc rules is always in consonance with AICTE regulations. So long as a government order implementing the amended AICTE regulations is not passed, the petitioners may not have case for promotion to the post of Principal. I, therefore, direct the Government to issue G.O. to implement the amended AICTE regulations as regards prescribing qualification for promotion to the post of Principal in a Government Polytechnic Colleges within a period of twelve weeks from the date of receipt of a copy of this order. The case of the petitioners will be considered immediately thereafter as against the available vacancies.



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G.R.SWAMINATHAN, J.

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8.These writ petitions are dismissed with the aforesaid directions. No costs.

07.11.2022

Index : Yes / No

Internet : Yes/ No

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Issue order copy 09.11.2022.

To:

- 1.The Principal Secretary to Government,
Higher Education (I2) Department,
Secretariat, Chennai – 600 009.
- 2.The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai – 600 025.

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