



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.01.2022**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P. (MD)No.5342 of 2018

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T.Jeyalakshmi

...Petitioner

/Vs./

Tamil Nadu Public Service Commission,
Represented by its Secretary,
Frazer Bridge Road, VOC Nagar, Park Town,
Chennai-3.

...Respondent

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondent to consider the candidature of the petitioner and select and appoint the petitioner in the post of Junior Assistant included in the Group IV services for the year 2015-16.

For Petitioner	: Mr.V.Kannan
For Respondent	: Mr.V.Panneerselvam

ORDER

The petitioner has sought a mandamus, directing the respondent to consider her candidature, select and appoint her in the post of Junior Assistant, Grade IV service for the period 2015-16.

2.Admittedly, the petitioner belongs to the Hindu backward class community (BC(OBCM)) and is a destitute widow. She responded to a notification calling for applications to fill vacancies in Group-IV services and was permitted to sit for a written examination on 06.11.2016.

3.She had secured 255 marks and was placed 3rd in the destitute widow category. Certificate verification was conducted and she states that she had duly appeared and produced all originals for verification.

4.She was however not called upon for counselling, since the foundation course undergone by her in Annamalai University was not considered as equivalent to SSLC (10th Standard) for the post sought for, despite an Equivalency Certificate issued by the Deputy Controller of Examinations, Annamalai University, dated 19.12.2014 and a Government Order in G.O.Ms.No.50, Personnel & Administrative Reforms Department, dated 21.02.1997.

5.She states that her eligibility is unquestionable, particularly since she was permitted to sit for written test and



called for certificate verification thereafter.

6.The respondent questions her eligibility stating that a two year foundation course in Annamalai University is not equivalent to Higher Secondary School Certificate (HSC) and also alleges that her application had not disclosed the fact that she had completed foundation course. In fact, she had erroneously claimed therein to have passed HSC and this was the reason why the application had been proceeded and she had been called for written test and certificate verification.

7.The decision that foundation courses awarded by various Universities are not equivalent to HSC has been the consistent stand of the State as may be seen from letter dated 03.12.2010 and the decision of the Equivalence Committee in the 53rd meeting held on 28.01.2016. This decision was crystallized thereafter in G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017.

8.Thus, her educational qualification was a Secondary School Leaving Certificate (SSLC) and since she had crossed maximum age limit of 35 years for the BC (Destitute Widow) category and was ineligible for age concession in the absence of HSC qualification, her candidature had been rightly rejected.

9.I have given my anxious consideration to the averments of both parties. In writ petition in W.P.(MD)No.7120 of 2011, learned Single Judge of this Court, vide order dated 07.09.2017 has rejected the case of a similarly placed candidate, though in the context of foundation course conducted by the Madurai Kamaraj University and had dismissed the writ petition holding that the petitioner had not undergone a pre-foundation course, which invalidated any subsequent degree obtained by him through the open university system.

10.The matter travelled in appeal and Division Bench by order dated 19.07.2019, in *Mohamed Hasan Refayee vs. the Tamil Nadu Public Service Commission and another* (W.A.No.213 of 2018) confirmed the order of the learned Single Judge stating that the degrees obtained on the basis of foundation courses conducted by Open Universities are not valid, and thus, such candidates would be ineligible for appointment in public service.

11.G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017 settles this position unambiguously. It refers in Reference No.7, to Letter No.33448/M2/2010-4, Personnel and Administrative Reforms (M) Department, dated 03.12.2010 stating as follows:

6. In view of the above, the following
clarifications are issued:-



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(1) A degree awarded by the Open Universities after passing Pre-foundation Course and two year Foundation Course through Open University cannot be recognised a degree as per University Grants Commission norms for the purpose of employment / promotion in Public Services, since such Pre-Foundation Course and 2 year Foundation Course are not contemplated in the University Grants Commission Regulations.

2) Therefore, those who obtained a degree under Open University System after passing the Pre-Foundation Course and two year Foundation course without passing 10th Standard and +2 examination, do not satisfy the conditions laid in G.O.(Ms) No.107, P&AR (M) Department, dated 18.08.2005, which is in consonance with the orders of Supreme Court of India."

12.This policy has been echoed in G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017, taking note of the recommendations of the 53rd Equivalence Committee as follows:

"5. In the meantime, the Equivalence Committee in its recommendations in the letter eighth and ninth read above has also resolved that the Pre-foundation Course and the Foundation / Bridge Courses awarded by various Universities cannot be recognized as equivalent to SSLC and Higher Secondary Course (+2). The recommendations of the Equivalence Committee are in consonance with the clarification issued in the letter seventh read above, hence, the Pre-foundation Course and the Foundation / Bridge Courses awarded by various Universities cannot be recognized as equivalent to SSLC and Higher Secondary Course (+2)."

13.In the light of the aforesaid, there is no infirmity in the rejection of the petitioner's application and her non-selection and the mandamus as sought for is not liable to be issued. This writ petition is dismissed.

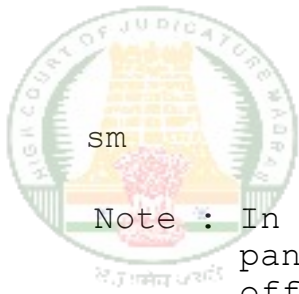
Sd/-

Assistant Registrar(Records)

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/ /2022

Sub Assistant Registrar(CS)



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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

Tamil Nadu Public Service Commission,
Represented by its Secretary,
Frazer Bridge Road, VOC Nagar, Park Town,
Chennai-3.

+1 CC to M/s.V.PANNEER SELVAM, Advocate (SR-1433[F] dated 12/01/2022)

Order made in
W.P. (MD) No. 5342 of 2018
Dated: 11.01.2022

MGJ (CO)
TR (08.02.2022) 4P 3C