



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.9794 of 2018

and

W.M.P. (MD)No.8988 of 2018

S.Thiruvenkata Ratnam

... Petitioner

vs

1. The Registrar,
Annamalai University,
Chidamdabaram.

2. The Director,
Directorate of Distance Education.
Srirangam, Trichy District.

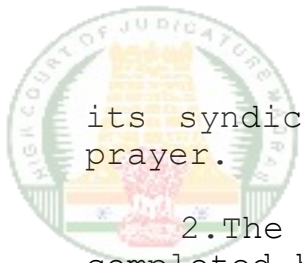
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order of the first Respondent dated 03.04.2014 in order No.254/2014 (C1) by its syndicate resolution No.42 dated 21.03.2014 and to quash the same and consequently, direct the first Respondent to appoint the petitioner herein in public services and re-instate the petitioner as Special Officer, DDE, Srirangam Trichy District, in the first Respondent University with all benefits with effect from the date of appointment dated 04.03.2011 following the Apex Court order made in Chandrakala Trivedi Vs. State of Rajasthan dated 12.01.2012 reported as 2012(3) MLJ 717 SC.

For Petitioner : M/S.Vijayashanthi
For Respondents : Mr.C.Venkatesh Kumar for R1
for M/S.Ajmal Associates
Mr.N.Ramesh Arumugam for R2
Government Advocate (Civil side)

O R D E R

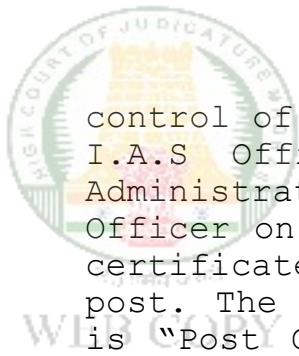
This Writ Petition is filed challenging the impugned order of the first respondent dated 03.04.2014 in order No.254/2014 (C1) by



its syndicate resolution, dated 21.03.2014 with the consequential prayer.

2.The brief facts of the case are that the petitioner had completed his 10th standard in the year 2002. The petitioner joined the B.A., Economics degree in Annamalai University, in Directorate of Distance Education Open University System through Entrance Test and obtained 59% of marks and then got a degree in B.A., Economics in the year 2006. The petitioner had completed P.G Degree in the year 2010 in regular course and qualified M.Phil., in first class in Bharathidasan University. The petitioner was appointed as Special Officer in the second respondent Office vide appointment order, dated 18.02.2011. The first respondent issued a Memo, dated 14.02.2014 directing the petitioner to produce 12th standard mark sheet on or before 21.04.2014. The petitioner submitted a reply, dated 18.02.2014 stating that he had passed three papers in 12th standard and requested time to pass the remaining three papers. Thereafter, the first respondent has issued a show cause notice, dated 04.03.2014 directing the petitioner to explain why the appointment shall not be cancelled since the petitioner is not possessing the prescribed educational qualification for the post of Special Officer. The petitioner submitted an explanation on 08.03.2014, stating the University Rule prescribes qualification for the post of Special Officer as only P.G second class on the date of appointment. Since the petitioner was having requisite qualification, he was appointed to the said post. Further the petitioner had passed 12th standard on 03.04.2014. However, without accepting the explanation of the petitioner, the University Syndicate resolved to modify the petitioner's appointment from the post of Special Officer, Srirangam to the post of Lab Attender, Annamalai University with effect from the date of joining i.e., 04.03.2011, since as per G.O.Ms.No.107, dated 18.08.2009 the Government has ordered that those who possess a pass in 10th and 12th standard prior to getting a degree, then only they are eligible for appointment in Public Services. The first respondent has passed the impugned order, dated 03.04.2014 cancelling the post of Special Officer and modified as Lab Attender in the pay Band of Rs.5200-20200+Grade Pay Rs.1900/- with effect from 04.03.2011 and the period of services as Special Officer would be taken into account for notional fixation of pay in the post of Lab Attender and reserves its right to recovery of excess payment. The petitioner's request was rejected and aggrieved over the same, the present writ petition is filed. Aggrieved over the order the present writ petition is filed.

3.The first respondent has filed a counter affidavit stating that the State Government of Tamil Nadu had taken over the Administration of the Annamalai University after various irregularities in the Administration of University by the then Management. In the year 2013, the Annamalai University Act 2013 was passed by the Tamil Nadu State Legislature and the Act provides for direct



control of Administration of the University by the State Government. I.A.S Officer was appointed on 04.04.2013 to standardize the Administration of the University. The petitioner joined as Special Officer on 04.03.2011 and since the petitioner has not produced 12th certificate, he was granted alternative employment as Lab Attender post. The qualification prescribed for the post of Special Officer is "Post Graduation with II Class" as per Rule 6 of the Service Rules for Clerical staff and other servants of the University in Part (c) of the standing orders contained in I Chapter XXVII of the Laws of the University. Since the petitioner had obtained P.G. Degree without passing 12th standard, the petitioner cannot be considered for appointment in terms of G.O.Ms.No.107, Personnel Administrative Reforms Department, dated 18.08.2009. Hence based on the Syndicate Resolution, the petitioner's case was considered sympathetically and in order to avoid extreme hardship the petitioner was posted as Lab Attender. The University cannot act beyond the purview of the University Act and Statutes. It is an admitted case that everyone including the petitioner, if they are not having minimum qualification, the University could not have taken an extreme step of termination. But based on the principle of Equity, the petitioner's job was accepted. Therefore, the respondents prayed to dismiss the writ petition.

4. Heard Mrs.Vijayashanthi, learned Counsel appearing for the petitioner, Mr.C.Venkatesh Kumar, learned Counsel appearing for the first respondent and Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the second respondent.

5. The contention of the respondent is that on verification of the educational qualification certificates of the petitioner, it is seen that the petitioner had passed B.A., degree through Open University and then passed Master Degree and M.Phil. degree in regular stream. The petitioner had passed 10th standard but has not produced the 12th certificate before passing degree in the Open University. The petitioner's representation was placed before the Syndicate for consideration on 21.03.2014. The Syndicate has held that the petitioner is not eligible to hold the post of Special Officer since the petitioner has not passed 12th standard before passing B.A., degree in Open University.

6. It is seen from the records that the petitioner has not completed 12th standard but has completed 10th standard and then B.A., degree in the Open University and M.A., and M.Phil., degree in regular Course. Until the passing of G.O.Ms.No.107, dated 18.08.2009 there was a policy decision prevailing in Tamil Nadu that any Open University degree without passing 10th and 12th are recognizable, if they have completed pre-foundation and foundation course. Based on the policy decision there are several candidates who have completed degree in Open University without passing X or without passing XII in the regular stream, but with the pre-foundation and foundation



course. In the present case, the petitioner has completed 12th standard after completing B.A., M.A., and M.Phil. The appointment in the respondent institution as Special Officer was not through any notification, which is a walk-in interview appointment.

7. The petitioner had completed 10th standard in the year 2002 and B.A. Economics in the year 2006 and it was permissible during 2006 to do B.A. in open university. With a fond hope to get a decent job the petitioner had qualified in B.A., then M.A. and M.Phil. Based on the qualification the petitioner was appointed in the year 2011 and was in the job for the past 3 years. Therefore, this Court is of the considered opinion that the petitioner was given the job as Special Officer and has served in the said Special Officer post for the past three years and had earned a respectable position in the society. Suddenly the petitioner was reverted back to the Lab Attender post. The respondents ought not to have initially granted any appointment at all. Moreover, the issue of not qualifying in 10+12+3+2 pattern, reverse qualification, foundation and pre-foundation course were prevailing until 17.08.2009. The entire issue was put to rest by various judgments and finally through G.O.Ms.No.107, Personnel Administrative Reforms Department, dated 18.08.2009. The persons who have qualified prior to the date of this Government Order i.e. 18.08.2009 ought to be considered for granting exemption. Since prior to this date the government was having a policy of allowing such degrees and persons with the fond hope had qualified themselves. Moreover, the respondents ought not to have started such courses at all, having started such course, has admitted the students and they have qualified. Moreover, it will be too late in a day to derecognize such qualifications. The contention of the respondent is that if the petitioner's claim is allowed then several other persons will come forward seeking for the same relief.

8. The issue of equivalency of "Pre-Foundation Course to SSLC" and "Foundation Course to Higher Secondary Course" was considered by this Hon'ble Court in a Division Bench in the case of Mohamed Hasan Refayee VS the Tamil Nadu Public Service Commission filed in W.A. No. 213 / 2018, vide order dated 19.07.2019 it has been held that,

"33. In view of the above said discussion and in view of the changed situation, the petitioner cannot now after 2009, claim to be eligible, to be considered for selection to the posts included in the Combined Subordinate Services Examination-I, because his graduation degree now cannot be considered to be a valid, in view of the fact that he has not either passed the 11th standard public examination under the old pattern or the 12th standard public examination under the new pattern and because of the fact that the Government in the year 2009 have issued G.O. Ms. No. 144, Personnel & Administrative Reforms Department,



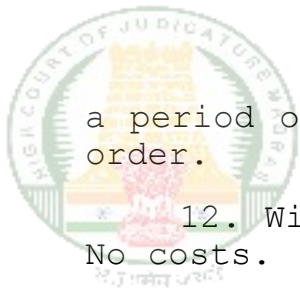
dated 20.11.2017 and in subsequent clarifications, taken a consistent stand that graduation degrees obtained on the basis of foundation courses conducted by Madurai Kamaraj University would not be considered as valid degree, to be eligible for appointment in public services."

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9. In the above case the Madurai Kamaraj University has categorically stated in the prospectus that Introduction Course is not equivalent to VIII standard. But applying the analogy stated in 2008 (3) MLJ 212 S. Rajkumar Vs. Chairman, Tamil Nadu Electricity Board, it has held that Introduction Course can be treated equivalent. But subsequently the issue was settled by the Equivalency Committee that the Introduction Course is not equivalent to VIII standard, Pre-Foundation Course is not equivalent to SSLC and Foundation Course is not equivalent to plus two course. But until 2009 the courses were considered as equivalent. This Court in Mohamed Hasan Refayee referred supra has held those who obtained a degree under Open University System after passing the Pre-Foundation Course and two year Foundation Course without passing 10th and 12th cannot be considered after the issuance of G.O.(Ms)No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009, since the said G.O. is in consonance with the Orders of Supreme Court of India. However the above clarification was followed from the date of issue of G.O.(Ms)No.107. Any government orders ought to be implemented from the date of the issue of the order unless it is given retrospective effect in the government order itself.

10. Therefore, in order to settle the entire issue to rest this Court is of the considered opinion that any qualification which is not in consonance of UGC Regulations, after the issuance of G.O.(Ms) No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009 can be considered as not qualified. But any qualification or any method of qualification prior to the G.O. Ms. No. 107 dated 18.08.2009 can be considered for appointment/promotion. This Court is of the considered opinion that if any cut off date is given, the issue can be settled. Therefore this Court is of the considered opinion that the date of G.O. Ms. No. 107 i.e. 18.08.2009 shall be taken as cut off. Any person qualified on or after 18.08.2009 as per UGC Regulations and Government Orders alone will be considered for appointment and promotion. However any person qualified as per the Government Orders prevailing prior to 18.08.2009 and appointed shall be shown some leniency.

11. The Annamalai University was maladministered and the government had taken over the University. On 04.04.2013 to standardize the Administration of the University, an IAS officer was appointed. Taking all these factors into consideration this Court is of the considered opinion that the petitioner deserves consideration. Therefore, the respondents are directed to confer the Special Officer post to the petitioner and grant all consequential benefits to the petitioner and the order shall be implemented within



a period of four weeks from the date of receipt of the copy of the order.

12. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Assistant Registrar (CO)

// True Copy //

/ /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

1. The Registrar,
Annamalai University,
Chidamdabaram.

2. The Director,
Directorate of Distance Education.
Srirangam, Trichy District.

+1 CC to M/s. C.VENKATESH KUMAR (AJMAL ASSOCIATES), Advocate
(SR-12675[F] dated 17/03/2022)

+1 CC to M/s.S.VIJAYASHANTHI, Advocate (SR-12585[F]
dated 16/03/2022)

+1 CC to M/s.SPL GP (SR-12701[F] dated 17/03/2022)

Order made in

W.P. (MD)No.9794 of 2018

16.03.2022

AM(CO)

GC(08.04.2022) 6P 6C