



W.P.(MD)No.20868 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.20868 of 2015

and

W.M.P(MD)Nos. 1 & 2 of 2015

T. Maneka

... Petitioner

vs.

The Secretary,
Tamil Nadu Public Service Commission,
Frazar Bridge Road,
VOC Nagar, Park Town,
Chennai – 600 006.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of *Certiorarified Mandamus*, to call for the records pertaining to the impugned order dated 28.10.2015, containing the register numbers of the candidates who have been admitted to the counseling, on the file of the Respondent and quash the same as illegal to the extent of non-inclusion of the petitioner in the same and consequently to direct the Respondent to select and appoint the petitioner in the post of Typist included in Group-IV Services of the years 2013-2014 and 2014-2015, within the time stipulated by this Court.



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For Petitioner : M/s.Lajapathi Roy
For Respondent : Mr.V.Panneer Selvam,
Standing Counsel

ORDER

This Writ Petition is filed for issuing Writ of *Certiorarified Mandamus*, to quash the impugned order, dated 28.10.2015, containing the register numbers of the candidates who have been admitted to the counseling, on the file of the Respondent and quash the same as illegal to the extent of non-inclusion of the petitioner in the same and also sought for a consequential direction to the Respondent to select and appoint the petitioner in the post of Typist included in Group-IV Services of the years 2013-2014 and 2014-2015, within the time stipulated by this Court.

2. Heard M/s.Lajapathi Roy, learned counsel appearing for the petitioner and Mr.V.Panneer Selvam, learned counsel appearing for the respondent. Perused the material documents available on record.



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3. The brief facts as stated in the affidavit is that, the petitioner has studied SSLC through regular schooling and he has also completed Foundation course 1 & 2, which are equivalent to 11th and 12th standard, in accordance with the G.O.Ms.No.528, Personnel and Administrative Reforms [P & AR] Department, dated 18.05.1985. He has also studied B.A. (English) and completed technical qualification of Type Writing both higher in Tamil and English. When the respondent has issued notification in Advertisement No.401/2014, dated 14.10.2014, the petitioner had applied for the said recruitment based on the above said qualifications. Though, the petitioner had attended written examination on 21.12.2014 and received call letter, dated 18.06.2015 from the respondent, he was not selected. Aggrieved over the same, the instant writ petition is filed.

4. It is seen from the affidavit that the petitioner has completed Foundation course only on 05.12.2011. The High Court has already decided the issue of Pre-Foundation and Foundation course, where, it has been held that Pre-Foundation Course is eligible, until 2009. But subsequently it has been held that the government had declared that it is not applicable from 2017 onwards in



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G.O.Ms.No.144 Personnel and Administrative Reforms (M) Department, dated 20.11.2017 and hence the cut off date would be 20.11.2017 onwards. This issue is considered by the Hon'ble Division Bench in W.A.(MD)Nos.497 to 500 of 2022 in the case of **P.Thavam Vs. the State of Tamil Nadu reported in 2022-III-LLJ-487(Mad)** and the relevant portion is extracted hereunder:

“This Court is of the considered opinion that the government had recognized the pre-foundation course vide G.O.Ms.No.528, P and AR Department, dated 18.05.1985 and the said G.O. was in existence from 1985 onwards, subsequently there was a challenge to the open university degree and the High Court has held open university degree is not valid and pre-foundation course as not valid. When it was considered valid for the past twenty four years, then it was declared as invalid, the persons who are affected from this shift / change of qualification ought to be protected. As rightly pointed out by the appellants, the Government has taken eight long years after issuance of G.O.Ms.No.107, Personnel and Administrative Reforms Department, dated 18.08.2009, to issue G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017. It is only in G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017 the government has declared that the pre



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foundation course is not recognized equivalent to the pre-foundation course. The G.O.Ms. No. 107, Personnel and Administrative Reforms Department, dated 18.08.2009, has only accepted the recommendations of the Equivalence Committee. As rightly pointed out by the learned Counsel appearing for the appellants, the government has passed G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017 wherein it has been categorically held that the pre-foundation course as invalid. If it is so, then the date of issuance of the said G.O. Ms. No. 144 ought to be held as the cutoff date. Moreover, the pre-foundation course was closed down in the year 2012. In short the pre-foundation course was recognized in the year 1985, then in the year 2009 it was held by High Court that pre-foundation course is not equivalent, then equivalence committee has reported it is not equivalent, the government accepted the report in 2009 and finally it was declared in the year 2017. Hence, the mischief of invalidity has been eradicated in phased manner. Therefore, this Court is of the considered opinion that the cutoff date, is the date of issuance of G.O.Ms.No. 144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017 i.e. 20.11.2017.”

In the present case, the petitioner has completed Pre-Foundation



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course, only in the year 2011. Therefore, this Court is of the considered opinion that the claim of the petitioner is within the cut off date i.e. 20.11.2017.

5. At this juncture the respondents submitted that the petitioner would be over aged and the petitioner's candidature cannot be considered at this point of time. Moreover, in the aforesaid writ appeal the candidates thereunder were already appointed and but denied promotion and hence the Hon'ble Court granted relief to the candidates thereunder. Hence the said judgment cannot be applied for the petitioner and prayed to dismiss the claim of the petitioner for appointment. It is seen from the affidavit that the petitioner was aged about 42 years at the time of filing the writ petition and she would be 49 years now. But the petitioner claims since he has higher qualification there is no age limit for considering his claim. Therefore, this Court is directing the respondents to consider the claim of the petitioner and grant age relaxation, if he is eligible for age relaxation for higher qualifications.



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6. Accordingly, with the above observation, the Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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S.SRIMATHY, J

ksa

Order made in
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