



W.P.No.20414 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

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THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.20414 of 2012
and M.P.No.1 of 2012

N.Velumani

... Petitioner

Vs.

The Director
Directorate of Collegiate Education
Chennai – 600 006.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in Na.Ka.No.20502/C2/2011 dated 05.07.2011 and quash the same and direct the respondent to appoint the petitioner to the post of Librarian.

For Petitioner : Mr.G.Ponnambala Thiagarajan
For Respondent : Mr.T.K.Saravanan
Government Advocate



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ORDER

This Writ Petition is filed to call for the records on the file of the respondent, in respect of the impugned order dated 05.07.2011 and quash the same and direct the respondent to appoint the petitioner to the post of Librarian with all consequential monetary and service benefits.

2.The petitioner was working as Assistant in the Office of the Regional Joint Director of Collegiate Education, Coimbatore and had put in more than 20 years of service. He also has the educational qualifications, M.A., M.L.I.S., M.Com., P.G.D.C.A. and M.Phil. While so, by an order dated 19.12.2005, he was transferred from the Office of the Controller of Examination and was posted at the Library.

3.It is the contention of the petitioner that from then on, the petitioner was only functioning as Librarian. It is the further contention of the petitioner that when similarly situated 5 Assistants approached this Court, this Court allowed their Writ Petition and rejected the contention of the respondents that in view of the impending amendment in the Recruitment Rules they cannot be



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absorbed permanently as Librarian.

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4.As a matter of fact, the respondents carried the matter upto the Hon'ble Supreme Court and by an order dated 26.08.2010, the Supreme Court dismissed the appeal filed by the respondents and confirmed the order. The Supreme Court had given a finding on merits, in favour of those Assistants that they deserve to be confirmed in the post of Librarian. The petitioner, therefore made a similar request that he should also be confirmed in the post of Librarian. In the meanwhile, from the post of Librarian, he was again reverted back as Assistant, in the year 2009. Therefore, he made a detailed representation dated 27.04.2009, requesting the respondents to permit him to continue in the post of Librarian and to confirm him in the said post. Since there was no effective response, he approached this Court in W.P.No.11401 of 2011 and by an order dated 29.04.2011, this Court disposed of the Writ Petition with a direction to the respondent therein to consider the representation and pass orders in accordance with law. Thereafter, the impugned order dated 05.07.2011 was passed holding that even though earlier directions were given in respect of the other Assistants, subsequently,



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the amendment to the Recruitment Rules came into force, with effect from 18.05.2009, from the date on which the post of Librarian was to be filled up by way of Direct Recruitment and a pass in NET or SLET also became mandatory and considering the said amendment to the rules, a similar W.P.No.1408 of 2011 filed by one *Renuka Devi* was also dismissed by this Court and on the basis of the same, petitioner's request was rejected. Aggrieved by the same, the present Writ Petition is filed.

5.Heard, *Mr.G.Ponnambala Thiagarajan*, learned counsel appearing on behalf of the petitioner and *Mr.T.K.Saravanan*, learned Government Advocate appearing for the respondent.

6.*Mr.G.Ponnambala Thiagarajan*, learned counsel appearing on behalf of the petitioner on taking this Court to the order dated 19.12.2005, posting the petitioner as Librarian would contend that the petitioner was transferred to the post of Librarian as early as in the year 2005, which is prior to the amendment to the rules. At the relevant point of time, transfer was a method of recruitment and once the petitioner was transferred to the post of



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Librarian and he being qualified to be appointed as Librarian in all respects and when he was working in the said post, the respondent erred in not considering the case of the petitioner. The case of the petitioner is on par with the 5 other Assistants covered by the order of the Hon'ble Supreme Court in S.L.P. (Civil) No.12101 of 2010 dated 26.08.2010. Therefore, the respondents erred in not confirming the petitioner as Librarian. Change in the Recruitment Rules and also requirement of NET or SLET all came into force only with effect from the year 2009 and once the petitioner's claim relatable to the year 2005, the same cannot be put against him.

7.Per contra, the learned Government Advocate appearing on behalf of the respondent would submit that the petitioner was reverted as Assistant from the post of Librarian as early as 2009 itself. As a matter of fact, when this Court directed the respondent to consider the representation, already the amended rule has come into force, by which time, the post of Librarian has to be filled up only by way of Direct Recruitment and a pass in NET or SLET is also made mandatory. Therefore, the petitioner who did not have the said qualification and the post of Librarian could not also be filled by way of



promotion/transfer, the claim of the petitioner was not considered.

8.I have considered the rival submissions made on behalf of the learned counsel on either side and perused the materials.

9.It is not the case of the petitioner that he is continuing in the post of Librarian, so that he can be absorbed with effect from the year 2005. Admittedly, from the post of Librarian, he was relieved and sent back to the original post of Assistant in the year 2009 itself. He did not approach the Court along with other Assistants, who got absorbed earlier. In the meanwhile, the Recruitment Rules have been amended with effect from 18.05.2009, by which the post of Librarian has to be filled by way of Direct Recruitment from among the candidates, who not only possess the Post Graduate degree, but also should have cleared NET or SLET for the purpose. In that view of the matter, when the similar claim of another Assistant, viz., *Renuka Devi* has been considered and subsequently rejected by this Court in W.P.No.1408 of 2011 and when the petitioner is not working in the said post or claiming any regularisation or absorption, but has been relieved, at this



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period of time, the relief as claimed by the petitioner cannot be granted to him.

10. Accordingly, this Writ Petition fails and stands dismissed. No costs.

Consequently connected miscellaneous petition is closed.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To
The Director
Directorate of Collegiate Education
Chennai – 600 006.



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D.BHARATHA CHAKRAVARTHY, J.,

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