



WEB COPY



W.P. No. 6069 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 6069 of 2023

and

W.M.P. Nos. 6098 and 6099 of 2023

K.Parthasarathy

... Petitioner

-VS-

1. The State of Tamil Nadu
Rep by its Secretary to Government
Differently Abled Welfare Department
IV Floor, Secretariat, Fort St. George
Chennai – 600 009.
 2. The State Director – cum – Commissioner
Differently Abled Welfare Department
No.5, Kamarajar Salai
(Lady Wellington College Compound)
Chennai – 600005.
 3. The Secretary
Tamil Nadu Public Service Commission
TNPSC Road, VOC Nagar
Park Town, Chennai – 600003.
- Respondents

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records connected with the impugned Notification issued by the Third Respondent in Advertisement No. 641, Notification No. 35 of 2022 dated 09.12.2022 for direct recruitment to the post of Junior Rehabilitation Officer in



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Welfare of Differently Abled Persons Department in Tamil Nadu General Subordinate Service and quash the same and consequently direct the Respondent Nos. 1 and 2 to include Rehabilitation Science as one of the qualifications for applying to the post of Junior Rehabilitation Officer in Welfare of Differently Abled persons Department in Tamil Nadu General Subordinate Service and to issue a fresh notification through the Third Respondent for filing the post of Junior Rehabilitation Officer in Welfare of Differently Abled Persons Department in Tamil Nadu General Subordinate Service.

For Petitioner : Mr. V.S.Jagadeesan
For Respondents : Mr. B.Vijay (R1 & R2)
Additional Government Pleader
Mr. R.Bharanidharan (R3)

ORDER

Heard Mr. V.S.Jagadeesan, Learned Counsel for the Petitioner, Mr. B.Vijay, Learned Additional Government Pleader appearing for the First and Second Respondents and Mr. R.Bharanidharan, Learned Counsel appearing for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Petitioner claims to have completed certificate course for Physiotherapy Technician and Post Graduate course in Master of Science in Fitness, Exercise, Rehabilitation and Nutritional Care, and that he is now holding the post of Vacation Instructor and Multipurpose Rehabilitation Aide from 01.03.2016 onwards in the services of the Government of Tamil Nadu.

3. The Third Respondent by Notification No. 35 of 2022 dated 09.12.2022 had called for application for filling up 7 vacancies in the post of Junior Rehabilitation Officer in Welfare of Differently Abled Persons (DAP-1) in Tamil Nadu General Subordinate Service and the educational qualification (as on 09.12.2022) prescribed for that post is extracted below:-

Name of the Post	Educational Qualification
Junior Rehabilitation Officer	(i) Post Graduate Degree in Psychology or Post Graduate Degree in Social Work or Sociology; and (ii) Not less than 2 years of experience in interpretation of Psychological tests or placement of persons with disabilities

4. The grievance ventilated by the Petitioner is that the aforesaid prescribed qualification must be amended by including the Post Graduate degree possessed by him so that he can apply and participate in the selection for that post. In that backdrop, this Writ Petition has been filed seeking such relief.



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5. It is not possible to countenance the said contention in the light of the

dictum laid down by the Hon'ble Supreme Court of India in ***Zahoor Ahmad***

Rather -vs- Sheikh Imtiyaz Ahmad [(2019) 2 SCC 404] extracted below:-

26. The prescription of qualifications for a post is a matter of recruitment policy. The State as the employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. Similarly, equivalence of a qualification is not a matter which can be determined in exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the State, as the recruiting authority, to determine.

That apart, it is not possible for this Court to grant the relief sought in the Writ Petition having regard to the settled legal position in the decision of the Hon'ble Supreme Court of India in ***Supreme Court Employee's Welfare Association -vs- Union of India*** [(1989) 4 SCC 187], which reads as follows:-

51. There can be no doubt that no court can direct a legislature to enact a particular law. Similarly, when an executive authority exercises a legislative power by way of subordinate legislation pursuant to the delegated authority of a legislature, such executive authority cannot be asked to enact a law which he has been empowered to do under the delegated legislative authority.



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In the result, the Writ Petition, which does not deserve to be entertained,
is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

No costs.

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Maya

Index: Yes/No

To

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P.D. AUDIKESAVALU, J.

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