



W.P.No.3239 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.3239 of 2012

M.Srinivasan

... Petitioner

..Vs..

1. The Corporation of Chennai,
Represented by its Commissioner,
Chennai – 600 003.
2. M.Santhanam,
License Inspector, Zone-9,
Corporation of Chennai,
Chennai – 600 003.
3. S.Manjula Devi,
License Inspector, Zone-9,
Corporation of Chennai,
Chennai – 600 003.
4. M.S.Balaji,
License Inspector, Zone No.3,
Corporation of Chennai,
Chennai – 600 003.
5. V.Raman,
License Inspector, Zone No.5,
Corporation of Chennai,
Chennai – 600 003.



W.P.No.3239 of 2012

6. J.V.Rangarajan,
License Inspector, Zone No.14,
Corporation of Chennai,
Chennai – 600 003.

.. Respondents

Prayer:- Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records ending with the order of 1st respondent made in proceedings Po.Thu.Na.Ka.No.E.5/24801, dated 30.12.2011 and to quash the same and consequently direct the 1st respondent to promote the petitioner to the post of License Inspector in the place above M.Santhanam, the 2nd respondent herein.

For Petitioner : Mr.N.Ishtiaq Ahmed

For Respondents : Mr.G.T.Subramaniam,
Standing counsel for Chennai Corporation

ORDER

Seeking the Writ Petition of Certiorarified Mandamus to set aside the order of the first respondent dated 13.12.2011 and to direct the first respondent to promote the petitioner to the post of Licence Inspector in the place above the second respondent–Santhanam.

2. The service matrix that are required for the determination is that the petitioner was first appointed as Office Assistant in Greater Chennai Corporation and joined duty on 01.03.1984. Subsequently, he was promoted as Junior Assistant with effect from 17.06.1995 and



W.P.No.3239 of 2012

transferred to the post of Tax Collector with effect from 28.03.1996 the post of Junior Assistant and Tax Collector are with equal Grade Pay of Rs.2400/-

3. During the panel year 2009, his name was not included in the panel. Consequently, the second respondent was promoted and hence the Writ Petition.

4. The sum and substance of the submissions found in the counter of the contesting first respondent is that the petitioner had possessed B.A Degree obtained directly without passing 10th standard and +2 standard examination namely 10th – 12th – UG – PG). For the above reasons, petitioner name was not included in the panel for the year 2011 (crucial date 01.03.2011) to the post of Licence Inspector.

5. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

6. From the records produced by the first respondent-Chennai Corporation is that as per the Bye-laws 2009 in force during the year 2011 the Graduate Tax Collectors with 12 years of service, Non-Graduate Assistants with 12 years of service, and Graduate Assistants are eligible for promotion to the post of Licence Inspector with scale of pay Rs.9300-34800+GP 4200 in the ratio of 1:1:3 respectively. The writ petitioner possessed B.A Degree obtained directly without passing 10th



W.P.No.3239 of 2012

standard and +2 standard examination (i.e. 10th – 12th – UG – PG).

Though the petitioner has completed eligible years of service in the post of Tax Collector and passed requisite departmental tests for promotion as Licence Inspector his degree could not be recognized for the above promotion.

7. From the typed set of papers, I find that the petitioner had completed Pre-Foundation Course through Open University without passing 10th standard and Government Order in force during the year 2010, the petitioner was not promoted to the post of Licence Inspector for the year 2010. Consequently, his name was not included in the panel for the year 2011 to the post of Licence Inspector.

8. In Government letter vide Letter No.33448/M/2010-4, Personnel & Administrative Reforms (PER.R) Department, dated 03.12.2010, the Government have issued following clarifications:

(i) 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.



W.P.No.3239 of 2012

(ii) 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:18.08.2009 which is in consonance with orders of Supreme Court of India.

Even the Government have clarified that the degree obtained after passing Pre-Foundation course through Open University cannot be recognized, it is known that the candidates who have completed Pre-Foundation course through Open University are also not considered as equivalent to SSLC.

9. The validity of G.O.Ms.No.107, P&AR (M) Department, dated 18.08.2009 was subject matter of the writ petition in W.A.No.821 of 2021 and also G.O.Ms.No.116, P&AR (M) Department, dated 18.08.2010. With regard to the same, the Division Bench of this Court in W.A.No.821 of 2021 dated 27.07.2021 has held that following the decision of the Hon'ble Supreme Court in Annamalai University Vs.Secretary to Government, Information and Tourism Department decision reported in *2009 (4) SCC 590* wherein, the question as to whether obtaining a Post Graduate Degree through Open University system without obtaining the Post Degree is valid or not? In the said



W.P.No.3239 of 2012

case, the Hon'ble Supreme Court has answered in affirmation that the Post Graduate Degree obtained by any individual without going Under Graduate cannot be considered for promotion. Based upon the above proceedings, the Division Bench of this Court has held that G.O.Ms.No.107 P&AR (M) Department dated 18.08.2009 was considered and upheld.

10. Admittedly, the petitioner has completed his Graduation under the Open University system as could be seen from the Transfer Certificate issued dated 31.01.1998.

11. In G.O.Ms.No.144 P&AR (M) Department, dated 20.11.2017, the Government has clarified that:

4. Based on the orders issued in the Government Order fifth read above, the recognition of the Pre-Foundation and the two year Foundation Courses awarded by various Open Universities were clarified in the letter seventh read above to the effect that:-

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

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, Personnel and Administrative Reforms (M) Department, dated 18.08.2009 which is in consonance with the orders of Supreme Court of India".



W.P.No.3239 of 2012

WEB COPY

The above clarification was followed from the date of issue of orders in the Government Order fifth read above.

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 recognised 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 recognised as equivalent to SSLC and Higher Secondary Course (+2).

12. Has held that applying the G.O.Ms.No.107 P&AR (M) Department and G.O.Ms.No.116 P&AR (M) Department, it stated that any Diploma or Degree or PG degree in Open University system other than regular / minimum / system has not valid and hence, I find that as the petitioner is not satisfying the criteria facts in G.O.Ms.No.107 P&AR (M) Department which was upheld by the Division Bench. As the same is found to be inconsonance with orders of Hon'ble Supreme Court, the petitioner name was not considered and included in the panel and hence, I have no hesitation to hold that as on that date for want of educational qualification as prescribed in the above said G.O, his name was not included.



W.P.No.3239 of 2012

WEB COPY

13. It is also placed on record that as per merits and seniority, the petitioner name was included in the panels for the posts of Licence Inspector and Assessor for the year 2013-2014 & 2016-2017 and placed him in S.No.7 (as Licence Inspector with Scale of Pay of Rs.9300-34800+GP 4200) and in S.No.4 (as Assessor with Scale of Pay Rs.9300-34800+GP 4800) and orders promoting the writ petitioner Thiru.M.Srinivasan as Licence Inspector and Assessor respectively were issued vide proceedings of the Commissioner, Greater Chennai Corporation, G.D.C.No.E5/21450/2013, dated 03.01.2014 and G.D.C.No.E5/38255/2013, dated 23.02.2017. Now the petitioner is working and getting salary in the post of Assessor till date.

14. Accordingly, I do not find any merits in this case and this Writ Petition is dismissed. No costs.

24.07.2023

nvi

Index:Yes/No

Neutral Citation : Yes/No



W.P.No.3239 of 2012

WEB COPY

To

1. The Corporation of Chennai,
Represented by its Commissioner,
Chennai – 600 003.
2. M.Santhanam,
License Inspector, Zone-9,
Corporation of Chennai,
Chennai – 600 003.
3. S.Manjula Devi,
License Inspector, Zone-9,
Corporation of Chennai,
Chennai – 600 003.
4. M.S.Balaji,
License Inspector, Zone No.3,
Corporation of Chennai,
Chennai – 600 003.
5. V.Raman,
License Inspector, Zone No.5,
Corporation of Chennai,
Chennai – 600 003.
6. J.V.Rangarajan,
License Inspector, Zone No.14,
Corporation of Chennai,
Chennai – 600 003



WEB COPY



W.P.No.3239 of 2012

RMT.TEEKAA RAMAN,J.,

nvi

W.P.No.3239 of 2012

24.07.2023