



W.P.No.6744 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.6744 of 2020

and

W.M.P.Nos.8017 & 8019 of 2020

T.Manickavelu
S/o.Thoppalan
B.T.Assistant (Tamil)
Thiru K.Kuppusamy Memorial High School
Chinna Kangiyanur
Thiuvannamalai

... Petitioner

/Vs/

1.The Director of School Education
DPI Campus, College Road
Chennai 600 006.

2.The Joint Director School Education
DPI Campus, College Road
Chennai 600 006.

3.The Chief Educational Officer
Thiruvannamalai District
Thiruvannamalai

4.The District Educational Officer
Thiruvannamalai Education District
Thiruvannamalai



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5.The Secretary

Thiru K.Kuppusamy Memorial High School
Chinna Kangiyanur, Pallikondapattu
Thivannamalai 606 611

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order issued by the second respondent in Na.Ka.No.024361/D1/E2/2019 dated 28.05.2019 by confirming the earlier order issued by the fourth respondent in Na.Ka.No.2722/A4/2015 dated 12.10.2015 and to quash the same and consequently directing the respondents to approve the promotion of the Petitioner to the post of B.T.Assistant (Tamil)/Tamil Pandit in the fifth Respondent school from the date of promotion with consequential and other attendant benefits including the payment of salary in the post of B.T.Assistant (Tamil)/Tamil Pandit from the date of promotion.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mr.P.Sanjay Gandhi
Government Advocate



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ORDER

The Petitioner was appointed as Office Assistant in the Respondent School on 29.01.1987. While in service he studied B.Lit., Degree, after getting permission from the Respondents and completed the same in May 2001. Subsequently, he also completed M.A., Degree in December 2003. He had also completed Tamil Pandit Training in Tamil University, Thanjavur in May 2008. In fact he secured admission for B.Lit., degree only after clearing the entrance examination as required under the UGC regulations. Subsequently, he had also passed 12th standard in June 2012. The fourth Respondent appointed the Petitioner in the post of B.T. Assistant (Tamil) on 12.10.2015 by considering his qualification in Tamil. However, his appointment was not approved by the Government, in view of the required qualification in the pattern of 10+2+3 as contemplated in G.O.Ms.No.107 P & AR (M) Department, dated 18.08.2009. The Petitioner has challenged the said rejection order dated 12.10.2015 and sought direction for approving his promotion in the post of BT Assistant and subsequently other attendant benefits applicable to the post of BT Assistant from the date of his promotion.



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2.Learned counsel for the Petitioner submitted that in the judgment passed by the Division Bench of this Court in the case of ***J.Joseph Irudayaraj Vs. Joint Director of School Education and others*** in W.A.No.1064 of 2012 dated 19.07.2019, where a similar such situation has been dealt and a direction has been issued to the Respondent Department to consider the proposal, by taking into account that the Appellant had completed his higher secondary examination.

3.The fourth Respondent has filed counter affidavit by stating that the Petitioner's claim cannot be considered, because he does not possess the required qualification in 10+2+3 pattern. The Petitioner obtained the educational qualification in the order of 10+3+2 pattern and the Petitioner had obtained B.Lit Degree through open University stream by passing a pre-foundation course. As per G.O.Ms.No.107, P & AR (M) Department, dated 18.08.2009, the educational qualification should be in the order of 10+2+3 pattern through a regular stream. Hence the proposal was returned to the fifth Respondent. Since the rules do not permit such appointment,



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the proposal has been returned.

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4.Learned Government Advocate appearing on behalf of the Respondents submitted that the above position has already been settled in a similar case. In ***T.Jeyalakshmi Vs. Tamil Nadu Public Service Commission*** in W.P.No.12189 of 2018 dated 11.01.2022, it is held that the subsequent degree obtained in Open University cannot be considered as valid for the purpose of appointment. In the said order, an earlier judgment passed by the Division Bench of this Court in the case of ***Mohamed Hasan Refayee Vs. the Tamil Nadu Public Services Commission and another*** in W.A.No.213 of 2018 dated 19.07.2019 has also been followed.

5.Heard the learned counsel for the Petitioner and the learned Government Advocate and perused the available records.

6.In the case in hand, the Petitioner, who was working as an Office Assistant seems to have acquired qualification, especially, in the subject of Tamil by obtaining B.Lit., Degree and thereafter M.A., Degree. He had



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also finished Pandit training in Tamil. At the time of appointment, he had passed SSLC only. Considering his educational qualification, the fifth Respondent has come forward to appoint him as B.T.Assistant (Tamil) due to the retirement of one Tamil teacher viz., Mr.K.Raju. According to the fifth Respondent, the appointment of the Petitioner came into effect from 01.06.2015, but the same was not approved by the Government and the papers were returned by the Government, stating that the Petitioner did not acquire the required qualification in the pattern of 10+2+3.

7.Learned counsel for the Petitioner submitted that even though the Petitioner had obtained B.Lit degree without passing +2, he had cleared +2 during June 2012, before his appointment as BT Assistant and so according to him, at the time of appointment he had the necessary qualification of 10+2+3, but in a little reverse pattern of 10+3+2. So the learned counsel for the Petitioner submitted that the Respondents should consider the larger interest of the Government Order and approve the Petitioner for the post of B.T.Assistant.



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8.The Government finds it difficult to give approval by objecting the pattern in which he acquired the qualification. Even in the counter of the fourth Respondent, it is not denied that the Petitioner did not qualify plus two. However, it is stated that he had acquired +2 only after he completed B.Lit., degree in Tamil.

9.The second objection of the Government is that the Open University degree can not be considered for the appointment and it is upheld by the Division Bench of this Court in ***Mohamed Hasan Refayee Vs. the Tamil Nadu Public Services Commission and another*** (W.A.No.213 of 2018 dated 19.07.2019), and which has been later followed in ***T.Jeyalakshmi Vs. Tamil Nadu Public Service Commission*** (W.P.No.12189 of 2018 dated 11.01.2022).

10.The learned Government Advocate attracted this Court's attention to G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017, which disapproves the degree obtained through Open University. However, the appointment of this Petitioner



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relates back to the year 2015 and hence the above G.O., cannot be applied retrospectively to the case of the Petitioner.

11.Hence, I feel it is appropriate to set aside the order of the second respondent in Na.Ka.No.024361/D1/E2/2019 dated 28.05.2019. Accordingly, the impugned order is set aside. Consequently the Respondents are directed to reconsider the matter afresh in accordance with law and in the light of the observation made in the preceding paragraph, approving the appointment of the Petitioner to the post of B.T. Assistant, within a period of four weeks from the date of receipt of a copy of this order.

12.With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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R.N.MANJULA, J.

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