



W.P.No.8291 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.8291 of 2021
and W.M.P.Nos.8832 of 2021

1. Ramesh M
2. R.Ananthakumar
3. G.Mekala
4. M.Rajalingam
5. K.Saravanan
6. P.Sutha
7. Tamilarasan R
8. T.Thamizharasan
9. P.Manjula
10. S.Jeyalakshmi
11. V.S.Kavitha
12. Parasuraman. R
13. X Arokiyastella Mary
14. E.Kavitha
15. A.Nirmala
16. Sankaran S
17. Sathish Kumar G
18. K.Selvakumar
19. L.Selvi
20. Usha Nandhini G
21. J.Vasu
22. Visalakshi T.A
23. K.Bharathi
24. K.Gayathiri
25. S.Geetha



W.P.No.8291 of 2021

26. R.Kalaivani
27. Narmadadevini E
28. Premalatha A
29. K.Sasikumar
30. K.Sathyabama
31. Selvamathavan S
32. Senthilkumar L
33. Senthilkumar D
34. Arul Jothi A
35. M.Selvaraju
36. M.Chitra
37. Umadevi S

...

Petitioners

/vs/

1. State of Tamil Nadu,
Rep. by Secretary to Government,
School Education Department,
Fort St. George,
Chennai – 600 009.
2. The Director of School Education,
DPI Campus,
Chennai – 600 006.
3. The Joint Director of School Education (Personnel)
DPI Campus,
Chennai – 600 006.
4. The Joint Director School Education (Vocational)
DPI Campus,
Chennai – 600 006.

...

Respondents



W.P.No.8291 of 2021

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents herein to redesignate the post of petitioners from computer instructors Grade-I to PG Assistant (Computer Science) and accordingly include the post of PG Assistant Computer Science as part and parcel of PG Assistant (academic subject) and thereby make it a Feeder Category for further promotion to the post of higher secondary Head Master in the Tamil Nadu Higher Secondary Educational Service Rules by giving due weightage of seniority of the petitioners from the date they have acquired the qualification as per the NCTE Regulations.

For Petitioner	...	Ms.Dakshayani Reddy Senior Counsel for Ms.S.Suneetha
For Respondents	...	Mr.S.Silambanan Additional Advocate General assisted by Mr.T.Chezhiyan Additional Government Pleader

ORDER

This petition has been filed by the petitioner seeking direction to the respondents herein to redesignate the post of petitioners from Computer Instructors Grade-I to P.G. Assistant (Computer Science) and accordingly include the post of P.G. Assistant (Computer Science) as part and parcel of P.G. Assistant (academic subject) and thereby make it a Feeder Category



W.P.No.8291 of 2021

for further promotion to the post of higher secondary Head Master in the Tamil Nadu Higher Secondary Educational Service Rules by giving due weightage of seniority of the petitioners from the date they have acquired the qualification as per the NCTE Regulations.

2. Mr.S.Silambanan, learned Additional Advocate General submitted that as per the G.O.Ms.No.720, Education Department, dated 28.04.1981, there are prescribed qualification and mode of selection for each category of Post Graduate Assistants in Academic Subjects, Post Graduate Assistants in Languages and Post Graduates teachers in Academic Subjection; similarly there are rules for recruiting the Head Masters and Head Mistress in Higher Secondary schools as well; the law in this point has been well settled that it is the rule making or appointing authority who has to prescribe a mode of selection and educational qualification for P.G.Assistant and the Courts cannot interfere and prescribe any other qualification for treating the individual cases as eligible for P.G.Assistants.



W.P.No.8291 of 2021

3. Admittedly the petitioners have not been recruited as P.G.Assistants and they have been employed through Electronic Corporation of Tamil Nadu (ELCOT). Even though they were instructors in the beginning they have been giving academic instructions to the Computer Science students after the subject of Computer Science has assumed so much significance and has been included as a subject in the general stream itself. But that alone will not condone the essential requirement of appointment to the post of P.G.Assistant.

4. In this regard it is relevant to cite the judgment of the Division Bench of this Court in ***C.Senthikumar Vs. The Chairman, University Grant Commission Vs. six others in W.A.No.2484 of 2018 dated 13.11.2018*** wherein it is held that the Courts and Tribunals cannot prescribe the qualifications by entrenching upon the power of the concerned authority so long as the qualifications prescribed by the employer is reasonably relevant and has a rational nexus with the functions and duties attached to the post and are not violative of any provision of Constitution, statute and rules. The above position has once again been



W.P.No.8291 of 2021

reiterated in a Writ Appeal in W.A.No.2876 of 2018 (C.Manikandan Vs. Teacher Recruitment Board and 2 others). In the said judgment, reliance was placed upon the judgment of Hon'ble Supreme Court held in ***P.U.Joshi and other Vs. Accountant General Ahmedabad and others*** reported in ***(2003) 2 SCC 632*** and it is asserted that the Courts cannot interfere in any such policy matters of the Government. The relevant portion of the said judgment is extracted hereunder:

"15. In P.U.Joshi and others vs. Accountant General Ahmedabad and others reported in (2003) 2 Supreme Court cases 632 at paragraph 10 of the judgment, the Hon'ble Supreme Court held as follows:

"Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment of eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no



W.P.No.8291 of 2021

right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service."

16. ... It is for the rule making or the appointing authority to prescribe the mode of selection and educational qualifications for the post of PG Assistant, Courts should not trench upon the power of the rule making or appointing authority, to prescribe the qualifications, which according to such authority is relevant for the post. What is the educational qualification required for the post depends upon the functions and duties attached to the post. Unless the qualifications prescribed are wholly irrelevant for the post, or against the statute or violative of the constitutional provisions, Court should not interfere."

5. The Government has been issuing several Government Orders by safeguarding the employment of the petitioners and at one point the essential requirement of securing a B.A. Degree was even relaxed. But that does not entitle the petitioners to assume a designation upon themselves as P.G.Assistants unless the appointing authorities for any reasons known to them, gives such approval.



W.P.No.8291 of 2021

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6. Ms.Dakshayani Reddy, the learned Senior Counsel for the petitioner attracted the attention of this Court to the TRB notification dated 11.02.2021 wherein the post of P.G.Assistant / Physical Education Director Grade - I and Computer Instructor Grade - I have been called for. It is submitted by the learned Senior Counsel for the petitioner that when the subject of Computer Science is accepted as a regular subject, the individuals who are handling the same ought not to have been called as Computer Instructor, instead they should also be designated as P.G.Assistants.

7. Just because a different nomenclature is adopted for any posts, I do not find there is any discrimination. Because the word “Computer Instructor” is in no way demeaning the job done by the Computer Science teachers. The anxiety of the petitioner is getting the designation as 'P.G.Assistant' is with an intention of getting further promotional avenues open to the cadre of P.G.Assistants. But, P.G.Assistants are recruited at the start itself as P.G.Assistants. Hence their career prospectus can be different from that of the career journey of Computer Instructors.



W.P.No.8291 of 2021

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8. It can be true that the petitioners like other P.G.Assistants handle Computer Science classes to the Higher Secondary students. And the mode of selection of other P.G.Assistants and the education requirement to be possessed by them is fundamentally different from the mode of selection adopted in the case of the petitioners and the educational qualification possessed by them. It is up to the petitioners and like others to make any representation to the respondent department to consider them to be redesignated as P.G.Assistant and it is up to the Government to consider their request or not.

9. With the above observations, this Writ Petition is disposed. No costs. Connected miscellaneous petition is closed.

07.12.2023

Index: Yes
Speaking order
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W.P.No.8291 of 2021

R.N.MANJULA ,J.

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To:

1. The Secretary to Government,
School Education Department,
Fort St. George,
Chennai – 600 009.
2. The Director of School Education,
DPI Campus,
Chennai – 600 006.
3. The Joint Director of School Education (Personnel)
DPI Campus,
Chennai – 600 006.
4. The Joint Director School Education (Vocational)
DPI Campus,
Chennai – 600 006.

W.P.No.8291 of 2021

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