



WP.No.14570 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

CORAM

**THE HONOURABLE MS. JUSTICE R.N.MANJULA**

W.P No.14570 of 2021

D. BALASUBRAMANIAN

...

Petitioner

/vs/

The State of Tamilnadu  
Rep. by Secretary to Government,  
Human Resources Management  
Department Formerly known as Personnel  
and Administrative Reforms Department,  
Fort St. George,  
Secretariat, Chennai-600 009 ...

Respondent

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the passing of the order of the Respondent letter No:35741/U/2019-1 Personnel and Administrative Reforms (U)Department dated 07-10-2020 and quash the said order and direct the respondent to include the petitioner's name in 2010-2011 year ASO panel list as per TNPSC seniority in G.O.(4D) No.33, Personnel and Administrative Reforms (U1) Department 19-05-2014 and to promote as Section Officer from the date on which his immediate junior was promoted with all monetary benefits.



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For Petitioner : Mr.M.Kalyanasundaram, Senior Counsel  
for Mr.R.Vasudevan

For Respondent : Mr.S.Silambanan, Addl. Advocate General  
assisted by  
Mr.T.Chezhiyan, Addl.Govt.Pleader.

## ORDER

This Writ Petition has been filed seeking to call for the records pertaining to the passing of the order of the Respondent letter No. 35741/U/2019-1 Personnel and Administrative Reforms (U) Department dated 07-10-2020 and quash the said order and direct the respondent to include the petitioner's name in the 2010-2011 year ASO panel list as per TNPSC seniority in G.O. (4D) No. 33, Personnel and Administrative Reforms (U1) Department 19-05-2014 and to promote as Section Officer from the date on which his immediate junior was promoted with all monetary benefits.

2. The petitioner, who has served in the Indian Air Force for more than 20 years, from 21.05.1986 to 01.06.2006 has been appointed as an Assistant in view of the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) in OM No. 15012/8/82/Estt(D)



dated 12.02.1986. The petitioner has passed SSLC and Higher Secondary and also obtained a degree equivalent education qualification certificate issued by the Indian Air Force, a Post-Graduation Diploma in Computer Application. The petitioner has completed his probation in the cadre of Assistant on 03.12.2009. He was also temporarily promoted as Assistant Section Officer vide office proceedings No.149 dated 08.02.2010. However, the grievance of the petitioner is that though he was eligible his name was not included in the regular panel for Assistant Section Officer for the years 2010–2011 as on August 1, 2010. The minimum prescribed qualification for promotion to the post of Assistant Section Officer as per Rule 14 of the Special Rules for the Tamil Nadu Secretariat Service is having a Bachelor Degree.

3. According to the petitioner, he is fully qualified for the said post. However, his name was not included by stating that he did not have the required educational qualification as contemplated under Rule 4 of the Special Rules for the Tamil Nadu Secretariat Service.

4. In this regard, the attention of this Court was drawn to an earlier judgement of this Court held in **WP.No.16723 of 2013 dated 02.07.2013**, in



which it is held that the petitioner in the above petition should not be deprived of the benefits of G.O.Ms.No.242 and as per G.O.(Ms) No.77, Public (Ex-Servicemen) Department dated 23.01.2018. In the said G.O.(Ms) No.77, Public (Ex-Servicemen) Department dated 23.01.2018 , it is stated as hereunder:

*“In the letter first read above, the Director of Ex-Servicemen's Welfare, Chennai has stated that the Government of India, Ministry of Personnel, Public Grievances and Pensions, New Delhi, vide its Notification No. 15012/8/82/Estt. (D), dated 12.02. 1986, has equated Matriculate Ex-Servicemen (which term includes an Ex-Servicemen who has obtained the Indian Army Special Certificate of Education or the corresponding Certificate issued by Navy / Air Force) who has put in not less than 15 years of Service in the Armed Forces of the Union might be considered eligible for appointment to the posts for which the essential educational qualification prescribed is Graduation. The Director of Ex-Servicemen's Welfare, Chennai, has further stated that based on the above notification, certain States viz., Punjab, Karnataka, Maharashtra, Goa, J&K, Odisha, Tripura and Pondichery have recognized the Matriculate Ex-Servicemen who have put in not less than 15 years of service in the Armed Forces of the Union to the posts for which Graduation is prescribed as educational qualification. The Director of Ex-Servicemen's Welfare, Chennai, has, therefore, proposed for the implementation of the above benefit in respect of Ex-Servicemen domiciled in Tamil Nadu.*

*2. In the Government letter second read above, the proposal received from the Director of Ex-Servicemen's Welfare,*



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*Chennai, has been sent to the Secretary, Tamil Nadu Public Service Commission, for obtaining necessary recommendation of the Equivalence Committee, on the same. In this regard, the Secretary, Tamil Nadu Public Service Commission, Chennai, in the letter third read above, has communicated the resolution of the Thirty Sixth Equivalence Committee Meeting, held on 15.11.2012, which is reproduced hereunder:-*

*"Resolution 4:*

*Considering the stand of Government of India, the State Government of Punjab, Karnataka, Maharashtra, Goa, Jammu & Kashmir, Orissa, Tripura and Government of Pondicherry in the subject, this Committee recommends that the Government may consider, as this being a policy decision."*

*3.After careful examination, the Government have decided to accept the proposal of the Director of Ex-Servicemen's Welfare, Chennai and accordingly, direct that for appointment to any reserved vacancy in "Group-C" posts, a Matriculate Ex-Servicemen, (which term includes an Ex-Servicemen, who has obtained the Indian Army Special Certificate of Education or the corresponding certificate in the Navy or the Air Force), who has put in not less than 15 years of service in the Armed Forces of the Union shall be considered eligible for appointment to the posts for which the essential qualification prescribed is Graduation. They are eligible for promotion to all Group 'A' and 'B' posts in routine course excepting for those posts for which graduation is prescribed as a prescribed qualification for promotion.."*

5. So the petitioner claims by virtue of the said G.O., he is eligible to get promotion to all the Group 'A' & 'B' post in routine course excepting for those



posts for which graduation is prescribed as a qualification for promotion.

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6. However, Mr.S.Silambanan, learned Additional Advocate General assisted by Mr.T.Chezhiyan, learned Additional Government Pleader for the respondents submitted that G.O.(Ms) No.77, Public (Ex-Servicemen) Department has been issued only on 23.01.2018 and hence, it cannot be put into retrospective effect and it will operate only from 23.01.2018. In respect of his above contention, the attention of this Court was drawn to the order of this Court made in WP.No.26924 of 2012 dated 10.03.2020. In the said case, it is held as under:

*“6. I also find merits on the submissions made by the respective learned standing counsel for the respondent-TNPSC. The reason being that when the Advertisement No.176 dated 10.11.2008 & Advertisement No.258 dated 30.12.2010 respectively were issued, the Government of Tamil Nadu have not recognised the Graduation Certificate obtained by the petitioners from the Indian Air Force / Indian Army as an equivalent qualification to that of B.A./B.Sc./B.Com of any University or institution recognised by the University Grants Commission. In any event, in the year 2018, accepting the recommendation made by the Director of Ex-Servicemen's Welfare, Chennai, the Government of Tamil Nadu have issued G.O.(Ms.)No.77 dated 23.1.2018, directing that for appointment to any reserved vacancy in Group "C" posts, a matriculate ex-servicemen, which term includes ex-servicemen, who has put in not less than 15 years of service in the Armed Forces of the Union, shall be considered eligible for appointment to the posts for which the essential qualification*



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*prescribed is Graduation. Therefore, by virtue of the above said Government Order, which will have prospective effect on and from 23.1.2018, an ex-serviceman having the Graduation Certificate issued by the Indian Army Special Certificate of Education or the corresponding certificate in the Navy or the Air Force, cannot have any legal right to claim that he had the prescribed qualification of Graduation even prior to the said date. Moreover, as the petitioners have also not obtained any order directing the respondents to keep one post each vacant and as a result, all the vacancies called for under the aforementioned notifications have also been filled up, this Court is unable to give any direction as sought for by the petitioners. However, it is made clear that the petitioners, if they are otherwise eligible, can always apply for the Group "C" posts for which graduation is prescribed as the essential qualification, as and when notification is being issued by the Tamil Nadu Public Service Commission. Accordingly, both the writ petitions fail and they are dismissed. Consequently, M.P.No.1 of 2012 is also dismissed. No costs."*

7. However, Mr.M.Kalyanasundaram, learned Senior Counsel for Mr.R.Vasudevan, learned counsel for the petitioner relied on the judgement of the Hon'ble Supreme Court in the case of ***S.Karunakaran Vs. A.Velmurugan*** reported in ***2020 SCC OnLine Mad 27951***. It is relevant to extract the following paragraphs of the judgement which deals with the subject involved in G.O.(Ms) No.77, Public (Ex-Servicemen) Department dated 23.01.2018:

*"13. Upon hearing the submissions made on either side, this*



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Court came to know that both the petitioners as well as the respondents have admitted the fact that the petitioners have completed the Physical Education Course and obtained the Certificate of Graduation in Physical Education from the Army, since they have completed 15 years of service. Further, G.O.(Ms.). No. 77, dated 26.07.2017 was passed by the Government to recognise the Graduation Certificate issued by the Army as equivalent to the Graduation in Physical Education.

14. Further, in the said G.O., it has been clearly mentioned that graduation made after the Matriculation. In the present cases, the petitioners have completed the 10 Standard and obtained the Graduation Certificate. But the only issue is whether the G.O., can be applied in the present recruitment process, which was called in the year 2017. The said G.O. was issued on 23.01.2018 and the said Notification was issued on 26.07.2017, after several representations given by the Ex-Servicemen Welfare Association from the year 2012 onwards and some of the representations dated 18.04.2012 and 21.05.2012 have been referred in the said G.O. After considering the representations given by the Ex-Servicemen Welfare Association in the year 2012, the Government has belatedly taken a decision. Had the Government took the decision immediately, the issue as to whether the application for retrospective effect would not have arisen. Therefore, this Court is of the view that the said G.O. can be applied in the present recruitment retrospectively and if it is not applied retrospectively, the respondent has to recognise the Graduation Certificate issued by the Army as equivalent to the graduation in Physical Education as equivalent to the qualifications as prescribed in Clause (ii) of the Notification.

15. On perusal of the prescribed qualification for the post of Physical Education Teacher, it appears that the persons qualified in SSLC and thereafter, completed the physical education course for 5 years is eligible. In the same way, the petitioners qualification ought to have considered as Matriculation Graduation.

16. In the present cases, the petitioners seek to quash the impugned Revised Provisional Selection List published by the first respondent dated 28.10.2020, for direct recruitment of Special Teachers (Physical Education Teachers) for the year 2012-2016. The learned counsel for the petitioners submitted that four vacancies are there in the Ex-servicemen category, as this Court already held that the petitioner Matriculation Graduation obtained from the Army as equivalent qualification ie., S.S.L.C., + Physical Education Graduation, as prescribed in Clause (ii) of the Notification dated 26.07.2017, this Court does not see any



*impediment for the respondents to consider the petitioner's candidature.*

*17. As the petitioners have completed the SSLC and obtained the Matriculation graduation certificate from the Army, the certificate of graduation obtained from the Army shall be treated as equivalent to the graduation in physical education, as sufficient qualification in terms of Clause (ii) of the Notification in which case, question of insisting HSC does not arise.*

*18. In view of the above finding that the qualification obtained by the petitioners is equivalent to the physical education graduation, this Court is of the view that it would be appropriate to direct the respondents to consider the petitioners' graduation certificate as equivalent to the qualifications as prescribed in Clause (ii) of the Notification.*

*19. Accordingly, these Writ Petitions are disposed of and the respondents are directed to fix the date for verification of the certificate of the petitioners within a week from the date of receipt of a copy of this order and until the completion of the certificate verification of the petitioners, the respondents are directed not to fill up the four posts which are available for Ex-Servicemen Quota. No costs. Consequently, the connected Miscellaneous Petitions are closed."*

**8.** By placing reliance on the above case, it is now claimed by the petitioner that the petitioner's name should be included in 2010-2011 Assistant Section Officer panel list and his seniority has been restored as per TNPSC in G.O.(4D) No.33, Personnel and Administrative Reforms (U1) Department 19-05-2014 and to promote him as Section Officer from the date on which his immediate junior was promoted with all monetary benefits.



9. The facts involved in *Karnakaran case (cited supra)* would show that the recruitment for 2017 promotion has not been concluded and hence, a direction has been given to consider the petitioner also for promotion by giving effect to G.O.(Ms) No.77, Public (Ex-Servicemen) Department, dated 23.01.2018. Since the ASO posts were not filled up the order has been passed not to fill up the four vacancies which are available for Ex-serviceman quota as on date when the order was passed. But in the case in hand, the promotion for the post of Assistant Section Officer pertained to the year 2010-2011 as on 01.08.2010 has already been over. The petitioner cannot seek such benefit to the year 2010-2011 on which date, the qualification possessed by the petitioner was not recognised. Since the petitioner's qualification was recognised after the government of Tamil Nadu has taken a policy decision by adopting the model followed by other state and issued G.O.(Ms) No.77, Public (Ex-Servicemen) Department, dated 23.01.2018, the petitioner's qualification can be considered on and from the date 23.01.2018, from which date the G.O. comes under force.

10. However, it is submitted by the learned counsel for the petitioner that the petitioner got qualified himself by completing a Bachelor Degree in the year December- 2013 and hence, he got the benefit of getting himself included in the



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2013 panel and he got promoted to the post of Assistant Section Officer. Since the relief sought by the petitioner is beyond the scope of G.O.(Ms) No.77, Public (Ex-Servicemen) Department, dated 23.01.2018, no relief as prayed by the petitioner cannot be granted.

In the result, this Writ Petition stands dismissed.

**30.11.2023**

Index : Yes

Internet : Yes/No

jrs

To

1. The Chairman,  
Neyveli Lignite Corporation Limited,  
Corporate Office, Neyveli -1.
2. The Director,  
Neyveli Lignite Corporation Limited,  
Corporate Office, Neyveli -1.
3. The Chief General Manager,  
Mine II. Neyveli Lignite Corporation Limited,  
Corporate Office, Neyveli -2.
4. The Deputy General Manager (Finance)  
Neyveli Lignite Corporation Limited,  
Corporate Office, Neyveli -2.



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**R.N.MANJULA, J.**  
jrs

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