



W.P.No.23669 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2023

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.23669 of 2019

1. M. Veerappan
2. S. Perumal
3. D. Razasekaran

...Petitioners

Vs.

1. Union of India, represented by
The Government of Puducherry
through the Secretary to
Government for Agriculture,
Chief Secretariat, Puducherry.
2. The Director,
Directorate of Agriculture,
Puducherry.
3. The Registrar,
Central Administrative Tribunal,
Chennai.
4. N. Kesavan

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari or any other Writ, Order or direction to call for the records of the 3rd respondent with regard to the order in O.A. No.1650 of 2016 dated 26.03.2019 and to quash the same and consequently to direct the respondents 1 and 2 to promote the petitioners by absorption to the post of Demonstration Assistant with all other consequential benefits.

For Petitioners	: Mr. V. Ajayakumar
For R1 & R2	: Mr. R. Syed Mustafa Special Government Pleader (Pondy)
R3	: Tribunal

ORDER

(R.HEMALATHA, J.)

The three petitioners are Mazdoors in the Agricultural Department, Puducherry. They have challenged the order of the Central Administrative Tribunal, Madras Bench, in O.A. No.310/01650/2016 & MA No.498/2018, dated 26.03.2019.



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2. The facts of the case in brief are as follows:

- i. The three petitioners along with another three (who were also applicants in O.A. No.1650/2016) are all mazdoors in the Agricultural Department of Puducherry Government. Their only promotional avenue was becoming Demonstration Assistant for which the stipulated educational qualification was a pass in SSLC or it equivalent. This was as per Recruitment Rules published on 22.03.2013.
- ii. On 12.08.2014, there was a proposal to fill up the post of Demonstration Assistant by absorption from the cadre of Mazdoor.
- iii. These candidates/petitioners had completed the pre-foundation course offered by Annamalai University in May 2016, which was considered as equivalent to a pass in SSLC.
- iv. However, on 03.03.2017, in a clarification sought from Personnel



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and Administrative Reforms (M) Department, Government of Tamil Nadu, it was mentioned that pre-foundation course of Annamalai University is not recognised as equivalent to SSLC of Tamil Nadu Government as it is not contemplated in the UGC regulations for formal education.

v. Consequently, the Departmental Promotion Committee which met on 28.06.2018 referring to the G.O.Ms.No.144 dated 20.11.2017 of Government of Tamil Nadu decided not to consider the promotion of 7 candidates who had passed pre-foundation course of Annamalai University.

vi. Six of them approached Central Administrative Tribunal in O.A.No.1650/2016 in which by order dated 26.03.2019, their prayer was negated and it was held that the Central Administrative Tribunal was bound by the dictum laid down by the Hon'ble High Court of Madras in *A. Ponnuswamy vs. State of Tamil Nadu* dated 15.12.2016 and therefore the pre-foundation course is not



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3. Heard Mr. V. Ajayakumar, learned counsel appearing for the petitioners and Mr. R. Syed Mustafa, learned Special Government Pleader (Puducherry), appearing for the respondents 1 and 2.

4. The learned counsel appearing for the petitioners would contend that the only avenue for promotion open to them is by way of educational qualification attained and that while they joined the pre-foundation course, they were not made to know about the non-recognition of the course and suddenly declaring that it is not equivalent to SSLC is totally arbitrary and unfair. His another contention was that the said judgment in W.P. (MD) 22071 of 2015 relied upon by the Central Administrative Tribunal has no relevance to the instant case because it was held in that case as "since the petitioner's qualification is not treated as equivalent, this Court is not inclined to accede to the prayer by the petitioner". Another observation was that "completion of 10th



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standard through regular schooling system is a must for promotion" which according to the counsel was not similar to the facts of the present case. Therefore, according to him this dispute has not been settled yet and the petitioners have to be rendered justice.

5. Per contra, the learned counsel for the respondents 1 and 2 contended that the old system of education has undergone many significant changes and UGC on its part has come out with many new stipulations and in order to standardize the educational qualification the pre-foundation course was not recognized as equivalent to SSLC. According to him there can be no compromise on the educational qualification even if it is for promotion because the requirement of higher assignments expect a higher standard and to perform them efficiently the educational qualification matters.

6. The whole issue boils down to only one aspect and that is whether the respondents were right in not considering the case of the petitioners for promotion to Demonstration Assistant because they



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passed pre-foundation course in Annamalai University which is not equivalent to SSLC as per Court orders in WP(MD) No. 22071 of 2015.

7. Before we delve into the merits of the case, let us understand the chronology of events as enumerated in this case.

- i. The notes of the Government of Puducherry were obtained by the petitioners through RTI.
- ii. The first one was a note dated 17.12.2014 prepared in the Chief Secretariat DP&AR/CCD in which a clarification was furnished to Chief Secretariat (Agriculture & Forests) on the equivalence of pre-foundation course in Annamalai University to SSLC. In this a reference was made to G.O. Ms. No.528 dated 18.05.1985 and G.O. Ms. No.219 dated 30.03.1988 issued by Government of Tamilnadu. In both these G.Os, the pre-foundation and the foundation courses of Annamalai University were considered as equivalent to SSLC and HSC respectively.
- iii. On 30.12.2014, the Law Department, Puducherry Government took a decision that "a pass in the pre-foundation course by the



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University is equivalent to the pass in SSLC". This decision was based on the judgment in W.P.24636 of 2014 and in W.A.No.1372 of 2013. In both these judgments it was clearly ruled that pre-foundation course was equivalent to SSLC.

- iv. On 27.03.2017 again the Law Department ruled that the Court order is supreme and even though the G.O. Ms.No.107, Personnel and Administrative Reforms, Govt. of Tamil Nadu dated 18.08.2009 declared that pre-foundation course is not equivalent to SSLC, the earlier decision of treating pre-foundation course as equal to SSLC was reiterated in the light of judicial pronouncements by Hon'ble Court in W.P. No.24636 of 2014 and W.A. No.1372 of 2013.
- v. It was also decided that the communication dated 03.03.2017 through the Personnel and Administrative Reforms Department of Government of Tamil Nadu was only advisory in nature and not binding.
- vi. On 11.07.2017, there was another note by Chief Secretariat DP&AR/CCD in which keeping in mind the judgment in



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W.P.(MD) 22071 of 2015, clarification was again sought from the Law Department, Government of Puducherry.

vii. On 14.07.2017, the Law Department, Puducherry reiterated its stance by contending that the decision in W.P. (MD) 22071 of 2015 was a Single Bench ruling while W.A. No.1372/2013 was delivered by a Division Bench and therefore, the latter holds good.

viii. On 03.10.2017 the Law Department categorically replied to the clarification sought by the Department of Agriculture, Puducherry that their earlier view on the equivalence of pre-foundation to SSLC holds good and that repeated references may be avoided.

ix. Simultaneously, applying this decision there were many promotions effected for other cadres like store keeper Grade 3.

x. Even on 02.01.2018, a letter to one K. Selvam who sought clarification regarding the equivalence of foundation course to HSC was given by the Joint Director, Directorate of School Education, Puducherry that it is equal to HSC.

xi. On 08.01.2018, the Law Department in the prenotes mentioned that since W.A. No.1372 of 2013 was confirmed by the Supreme



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Court in SLP(C) 14718 of 2014, the decision to hold pre-foundation course as equivalent to SSLC remains.

xii.However on 28.06.2018, the Departmental Promotion Committee while filling up 21 post of Demonstration Assistant observed in its minutes of the meeting thus:

"on scrutiny of the service particulars, the Committee noted that the following seven mazdoors have recently passed the Pre-foundation course held during the year 2017 from Annamalai University. The Government of Tamil Nadu vide G.O. Ms. No.144 dated 20.11.2017 of Personnel and Administrator Reforms (M) Department has declared that the pre-foundation courses and Foundation courses conducted by various universities are not equivalent to SSLC and HSC respectively. The Committee further noted that the equivalence of the Pre-foundation Course conducted by Annamalai University is not declared as equivalent to SSLC by Government of Tamil Nadu. As such, the following cases need not be considered for promotion.



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S.No.	Seniority No.	Name of the officials Thiru/Tmt	Educational Qualification	Date of regular appointment in the present grade	Date of declaration of probation in the present grade	Whether belongs to SC/ST/OBC/General
1.	349	C. Danasegarane	Pre-Foundation Course	10.06.2002	09.06.2004	UR
2.	383	D. Mourougavelou Dolard	Pre-Foundation Course	10.06.2002	09.06.2004	SC
3.	394	N. Kesavane	Pre-Foundation Course	10.06.2002	09.06.2004	UR
4.	400	Perthus Sallustre	Pre-Foundation Course	10.06.2002	09.06.2004	UR
5.	404	M. Veerappan	Pre-Foundation Course	10.06.2002	09.06.2004	UR
6.	462	S. Peroumal	Pre-Foundation Course	21.09.2005	20.09.2007	UR
7.	480	D. Razasekaran	Pre-Foundation Course	05.02.2010	04.02.2012	SC

xiii.Out of these 7 candidates, 6 were the applicants in O.A.No.1650/2016 filed before the Central Administrative Tribunal, Chennai.



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8. According to the Central Administrative Tribunal, Chennai, the facts of the case in W.A. No.1372/2013 are different from that of W.P.(MD) No.22071/2015. While the former was regarding the equivalence of Foundation Course with HSC, the latter is regarding the equivalence of Pre-foundation course with SSLC.

9. It may be observed that the subject of equivalence of the pre-foundation and Foundation courses with SSLC and HSC respectively have always gone together in all the G.Os of the Government of Tamilnadu. Moreover, the ruling in W.P. (MD) 22071/2015 categorically stated that only the regular schooling ending up in SSLC would qualify as recognised and not any pre-foundation course. This order in W.P. (MD) No.22071/2015 was not challenged then. Though the present petition is filed challenging the order of the Central Administrative Tribunal, Chennai in O.A. No.1650/2016, technically speaking this is also in a way against the orders in W.P. (MD) 22071/15 which is the only ruling relied upon by the Central Administrative Tribunal, Chennai.



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10. Notwithstanding the aforesaid facts, three important aspects which are to be discussed in order to arrive at a fair conclusion are,

- (a) The pre-foundation course was considered equivalent to SSLC till 08.01.2018, as is evidenced from the notes prepared by the Law Department of Government of Puducherry.
- (b) There is no evidence that there was any intimation to the State Government employees by way of any circular that the equivalence of pre-foundation course to SSLC cease to exist from a particular date.
- (c) The petitioners had completed the pre-foundation course in May 2016 and not in 2017 as mentioned in the minutes of the proceedings of the Department dated 28.06.2018.

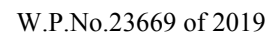
11. The concrete decision by the Government of Puducherry was never taken regarding this equivalence. They were dilly dallying on the issue with the matter referred to Law Department by the Agricultural



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Department more than three times. When no decision was taken even till 08.01.2018, there is no fairness in the 28.06.2018 proceedings of the Departmental Promotion Committee excluding the petitioners based on their educational qualification (equivalence aspect). Even assuming that the Department of Agriculture of the Government of Puducherry atleast took a final call on the matter, there is no evidence of it being circulated. The petitioners would have joined the pre-foundation course only with the hope of getting promoted. The requisite qualification for promotion to the post of Demonstration Assistant was SSLC or its equivalent. They were witness to many promotions taking place in different cadres and the pre-foundation course being considered as equivalent to SSLC. They were made to believe that completing pre-foundation course would qualify them for the promotion to Demonstration Assistant post. To complete the one year course in 2016 they have joined in 2015. In such circumstances not considering pre-foundation as equivalent to SSLC is though an administrative decision, smacks of indecisiveness. Government of Puducherry ought to have notified it properly. They ought to have implemented it prospectively. Instead the "hide and seek"



12. In view of the foregoing discussions, we are of the view delay in decision making by the respondents deprived the petitioners of an opportunity of getting promoted. Therefore, the petition is allowed. But this pertains to only the three petitioners and in addition three applicants in O.A. No.1650/2016 as a special one time promotion. Their promotion has to be considered afresh subject to their compliance with the other criteria. This decision shall not be construed as a precedent for any other case.



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13. In the result, the writ petition is allowed. No costs. The order dated 26.03.2019 of the Central Administrative Tribunal, Chennai in O.A. No.1650/2016 is set aside. The respondents are directed to complete the entire process within 4 weeks from the date of receipt of a copy of this order.

(V.M.V.,J.) (R.H.,J.)
10.02.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

To

1. Union of India, represented by
The Government of Puducherry
through the Secretary to
Government for Agriculture,
Chief Secretariat, Puducherry.
2. The Director,
Directorate of Agriculture,
Puducherry.
3. The Registrar,
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