



W.P.(MD).No.14821 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.11.2023

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.14821 of 2016

and

W.M.P.(MD).No.10957 of 2016

R.Suresh

.. Petitioner

Vs.

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

2.The Chief Educational Officer,
Pudukkottai District,
Pudukkottai.

3.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 1st respondent in Na.Ka.No. 43781/C2/E1/2015 dated 03.08.2015 and to quash the same and consequently directing the respondents to grant retrospective promotion to



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the petitioner in the post of BT Assistant (Science) from the panel year 2006 on par with juniors with all consequential and other attendant benefits including arrears of salary along with interest, within a time frame to be fixed by this Court.

For Petitioner : Mr.F.Deepak
For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

The present Writ Petition has been filed challenging the order passed by the first respondent dated 03.08.2015 and consequently direct the respondents to grant retrospective promotion to the petitioner in the post of BT Assistant (Science) from the panel year 2006 on par with juniors with all consequential and other attendant benefits including arrears of salary along with interest, within a time frame to be fixed by this Court.

2. The undisputed facts are that the petitioner is a graduate in B.Sc. Physics. He completed the said course in the year 1998. He was appointed as a Secondary Grade Teacher in the Government Higher Secondary School Annavasal, Pudukottai District. His service was regularised with effect



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from 25.08.2003. The petitioner, in order to be considered to be promoted to the post of B.T. Assistant, would have to qualify himself in B.Ed., degree.

Therefore, he underwent the B.Ed., degree from Indira Gandhi National Open University (hereinafter referred to as 'IGNOU'). He completed the course in the year 2005. Having obtained the B.Ed., degree, he was entitled to be considered to the post of B.T. Assistant, since the crucial date for preparation of promotional panel for the post of B.T. Assistant is 01.01.2006. The petitioner having acquired the necessary qualification before the crucial date, i.e., 01.01.2006, he was not considered because of a doubt in the mind of the respondents, whether the degree obtained from IGNOU is equivalent to the degree granted by other Universities in Tamil Nadu.

3. The Government of Tamil Nadu took a decision and granted equivalence of the B.Ed., degree obtained from IGNOU with similar degrees issued by the State as per G.O.Ms.No.129 School Education Department dated 08.07.2005. The petitioner immediately on coming to know that he was not considered for promotion to the post of B.T. Assistant, gave a representation on 16.11.2006. In this representation, he specifically



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sought for to be considered in the panel for the year 2006. He followed this up with yet another representation on 23.12.2006. In other words, he has given a representation immediately on coming to know of the non-inclusion of his name in the panel. In fact, his case was considered by the Headmaster of the Government Higher Secondary School, Annavasal, Pudukottai District and a letter was sent to the Chief Educational Officer, Pudukottai District, namely, the second respondent, for inclusion of his name in the panel for the year 2006, i.e., promotion to the post of B.T. Assistant.

4. By the impugned order, the Director of School Education/first respondent had rejected the request for inclusion of the petitioner in the panel of the year 2006 on the ground that the petitioner had not approached the Government in time. The first respondent has relied upon Rule 35(f) of the Tamil Nadu State and Subordinate Service Rules. Rule 35(f) of the Tamil Nadu State and Subordinate Service Rules applies where a person lets a seniority list, that is published, to become final and the period of limitation fixed for taking action, which is three years from the date on which it is published. This is the only ground on which the representation of the petitioner had been rejected.



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5. A careful perusal of the records shows that the petitioner had made a representation on 16.11.2006, which is within the period of one year from the crucial date, namely, 01.01.2006 and therefore, the ground preferred in the impugned order is unsustainable.

6. A Full Bench of this Court has already settled the question that equivalence relates back to the date of acquisition of the degree and not on the date it is brought to the knowledge of the authorities. In this particular case, the petitioner having obtained his B.Ed., degree on 25.04.2005, was entitled to be considered to be included in the panel for the year 2006. It is pertinent to point out that accepting the equivalence, he has been given the promotion only in the year 2007.

7. In the light of above and in view of the fact that Rule 35(f) of the Tamil Nadu State and Subordinate Service Rules not being applicable to the present case, the impugned order passed by the first respondent dated 03.08.2015 is quashed and the Writ Petition is allowed. The respondents are directed to consider the petitioner to be entitled for promotion to the post of B.T. Assistant, if he is otherwise eligible, for the panel of the year 2006.



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There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

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V.LAKSHMINARAYANAN,J.

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