



W.P.(MD).No.2660 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 31.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.2660 of 2016

M.Kumar

... Petitioner

Vs.

The Joint Director of Agriculture Department,
Office of the Joint Director,
of the Agriculture Department,
Nirubar Colony,
Palayamkottai,
Tirunelveli District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in No.Ni3/692/14 dated 16.12.2015 on the file of respondent and quash the same as illegal and directing the respondent to appoint the petitioner as a Depot Security at Agriculture Department, Tirunelveli District.

For Petitioner : Mr.G.Karthik,
For Mr.S.Rajasekar

For respondent : Mr.R.Suresh Kumar,
Additional Government Pleader.



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ORDER

This Writ Petition is filed challenging the impugned order dated 16.12.2015 with a consequential relief to appoint the petitioner as Depot Security in the Agriculture Department.

2. The contention of the petitioner is that he has completed 8th Standard through regular schooling and completed B.A., degree in Open University and has registered in the Employment Exchange. The petitioner belongs to SC category and he is an Ex-serviceman and retired from service under voluntary retirement scheme in the year 2011. The petitioner applied for the post of Depot Security through advertisement dated 07.08.2015. The educational qualification prescribed for the said post is 8th Standard pass or 10th fail. The petitioner applied to the said category. However, the application of the petitioner was rejected for the reason that he is over qualified. The contention of the petitioner is that he has completed B.A. degree through open university, but he has passed 8th standard alone. After passing 8th standard, the petitioner was admitted to 9th standard, he failed in 9th standard. The petitioner has not completed pre-foundation and foundation course but directly applied to the Open University. Therefore, the B.A. degree of the petitioner cannot be



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considered for either recruitment or promotion. Hence the contention of the petitioner is that the respondents ought to have ignored the B.A. degree qualification and ought to have considered to the said post.

3. The contention of the respondent as stated in the counter affidavit is that the petitioner while submitting his application has enclosed the employment card. In the employment card, it has been stated he has completed B.A degree and also registered in the Employment Exchange. Moreover, he has completed 9th standard and he has not stated whether he has passed or failed. Since there are discrepancies in the qualification, the petitioner was not selected for the said post.

4. Heard Mr.G.Karthik, learned counsel for Mr.S.Rajasekar, appearing for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader, appearing for the respondent.

5. The contention of the petitioner is that even though he has completed B.A., degree in Open University, he has not passed 10th or +2 in regular stream. He has not studied Pre-foundation or Foundation course also. In such circumstances, based on the Government Order in G.O.Ms.No.107, Personnel



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and Administrative Reforms Department, dated 18.08.2009, his B.A., degree cannot be taken as qualification at all. The learned counsel appearing for the petitioner submitted an interesting proposition that G.O.Ms.No.107 makes it clear that a degree obtained without passing 10th, +2 or pre-foundation or foundation course is not a valid one for direct recruitment or promotion in the Government Services. Even though the petitioner is possessing B.A., degree in Open University, the petitioner has not completed 10+2+3. Moreover, he has not done Pre-foundation or Foundation course. In such circumstances, the B.A., degree of the petitioner cannot be taken into account for appointment or promotion. Therefore, this Court is of the considered opinion that the petitioner is entitled to be considered without his B.A., degree because the B.A., degree is invalid in the eyes of law for the reason stated supra. However, the petitioner's qualification is 9th standard fail. Therefore, based on the said qualification, the petitioner is entitled for the said post.

6. The claim of the petitioner is that the respondent had called for application for 42 vacancies, but filled only 14 posts and the balance 28 vacancies are still available. Since vacancies are available, the respondent is directed to consider the petitioner's claim without reiterating that the petitioner is having B.A., degree, since this Court has held that the said B.A., degree is



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invalid in the eyes of law as discussed supra. Therefore, the respondent is directed to consider and pass orders within a period of (8) eight weeks from the date of receipt of a copy of this order. If any vacancy is available, the petitioner shall be appointed.

7. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

31.01.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

The Joint Director of Agriculture Department,
Office of the Joint Director,
of the Agriculture Department,
Nirubar Colony,
Palayamkottai,
Tirunelveli District.



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S.SRIMATHY, J.

Nsr

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