



W.P.(MD)No.5161 of 2016

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 27.06.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P.(MD)No.5161 of 2016**

**and**

**W.M.P(MD)No.4616 of 2016**

A.Jeyaraj

... Petitioner

**Vs.**

- 1.The Chairman Cum Managing Director,  
TANGEDCO,  
No.144, Anna Salai,  
Chennai - 600 002.
- 2.The Secretary,  
Secretariat Branch,  
TANGEDCO,  
N.P.K.R.R. Maligai,  
No.144, Anna Salai,  
Chennai - 600 002.
- 3.The Chief Internal Audit Officer,  
Audit Branch,  
TANGEDCO,  
1st Floor, N.P.K.R.R.Maligai,  
No.144, Anna Salai,  
Chennai - 600 002.



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4.The Chief Engineer (Personnel)  
Administrative Branch,  
TANGEDCO,  
N.P.K.R.R. Maligai,  
No.144, Anna Salai,  
Chennai - 600 002.

5.P.Sundaramoorthy  
Internal Audit Officer,  
Villupuram Region, Audit Branch,  
TANGEDCO/TNEB Ltd.,  
Old Power House Road,  
Villupuram,  
Villupuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of Promotion of the Respondent No.5 as the Internal Audit Officer in Office Order No.1785/F.1/F.12/2013 dated 05.11.2013 on the file of the Respondent No.3 as illegal and consequently to direct the Respondents to revert the Respondent No.5 to any post suitable as per the educational qualifications of the Respondent No.5.

For Petitioner : Mr.G.Karthik  
for M/s.Lajapathi Roy & Associates

For Respondents : M/s.M.Parameswari - for R1 to R4  
Standing Counsel

Mr.V.Karthick Raja - for R5  
for M/s.Ajmal Associates



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**ORDER**

This writ petition is filed challenging the impugned order, dated 05.11.2013 and also seeking consequential direction to the 2<sup>nd</sup> respondent to revert the 5<sup>th</sup> respondent to any post suitable as per the educational qualification. Through the impugned order, the respondents have given promotion to the 5<sup>th</sup> respondent as Internal Audit Officer.

2. Heard Mr.G.Karthik, for M/s.Lajapathi Roy and Associates, the Learned counsel appearing for the Petitioner and Mr.M.Parameswari, the Learned Standing Counsel appearing for R-1 to R-4 and Mr.V.Karthik Raja for M/s.Ajmal Associates, the Learned counsel appearing for R-5 and perused the material documents available on record.

3. The contention of the petitioner is that the qualification prescribed as per Annexure III referred to Regulation 94 of TNEB Service Regulations for promotion to the post of Assistant Audit Officer is that the candidate should possess Degree, pass in Government Technical Examination in Accountancy by



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Lower and Higher Grade and two years experience as Auditor in the Audit Branch. After further for promotion to the post of Internal Audit Officer, not less than five years experience as Assistant Audit Officer is necessary and must possess a degree. But the 5<sup>th</sup> respondent has passed B.Com. degree with one year duration, which is held invalid. Also the 5<sup>th</sup> respondent is not having Government Technical Examination in Accountancy Lower and Higher Grade and hence the 5<sup>th</sup> respondent is not eligible to hold the post of Assistant Audit Officer and Internal Audit Officer.

4. The petitioner had completed one sitting B.Com. degree in Osmania University and as per judgment rendered in R.Thirunavukarasu Vs. the State of Tamil Nadu reported in 2012 (5) CTC 125, a degree studied within one year duration is not valid. Again as held by the Hon'ble Supreme Court in Annamalai University case reported in (2009) 4 SCC 590, a degree in violation of UGC Regulation under the Open University System is held void and yet promotions are made as against the decisions of the Supreme Court and High Court. Therefore, the 5<sup>th</sup> respondent is not coming within the zone of consideration and hence he cannot be promoted to the next post.



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5. The official respondents have filed counter stating that the 5<sup>th</sup> respondent even though has completed B.Com. degree in one sitting, the entire three years syllabus he has undergone, in such circumstances the same cannot be considered as one sitting degree. Hence the 5<sup>th</sup> respondent was granted exemption from undergoing any Accountancy test since he had passed B.Com. Therefore, the exemption granted in the said post is applicable to the 5<sup>th</sup> respondent as well.

6. For this contention, the learned counsel appearing for the petitioner submitted that the official respondents are taking inconsistent, in Chennai cases the respondents have taken a stand that the said persons are not entitled to post and issued a Show Cause notice to revert the said persons to the eligible post. In Madurai, the respondents have taken, especially in the case of the 5<sup>th</sup> respondent, since the 5<sup>th</sup> respondent has completed in Open University he is entitled to promotion since he has completed 3 years course in one sitting.

7. The contention of the respondents is that the scheme of completing three years Course in one sitting is recognized by the UGC and it has granted approval to such course. A specific stand was taken by the 5<sup>th</sup> respondent by



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stating that the said course is recognized until 1995-1996. To this effect, the UGC Circular No.F.11-4/92 24<sup>th</sup> April 1996 & D.O.No.F.11-4/92/cpp II/dated 25.02.1997 is extracted hereunder:

*“the decrees of the candidates enrolled for the onetime degree of the candidates declared valid may be treated at par with other degrees of the same university for all purposes including admission to higher degrees and employment. The above decision is applicable to all the universities who are running one sitting degree courses”.*

In the present case, the 5<sup>th</sup> respondent has completed the course in the year 1995-1996. Therefore, the petitioner is eligible as per the circular stated supra.

8. When the said degree was recognized by UGC during 1995-1996, then it cannot be stated the same is invalid if the said degree is obtained prior to 1995-1996. Infact the issue of pre-foundation and foundation course was considered by the Hon’ble Division Bench in Mohamed Hasan Refayee Vs. TNPSC and another in W.A.No.213 of 2018, dated 19.07.2019, wherein it is held that until the passing of G.O.Ms.No.107 Personnel and Administrative Reforms Department, dated 18.08.2009, the pre-foundation and foundation is considered



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as equivalent to 10<sup>th</sup> and +2 respectively and the Government has also accepted the said view. Subsequently in the G.O.Ms.No.107 only it has been stated that it is not equivalent by accepting the report of the Equivalency Committee. Therefore, the Hon'ble Division Bench has held that the said degree is valid prior to 18.08.2009, but not valid subsequently. Following the Hon'ble Division Bench judgment rendered in Mohamed Hasan Refayee, this Court had considered the same issue in A.V.Vahitha Begum's case filed in W.P.(MD)No.20868 of 2015 and vide order dated 03.11.2022 had allowed the writ petition. In another Division Bench in W.A.No.497 to 500 of 2012 in the case of P.Thavam and Others Vs. The State of Tamil Nadu, vide order dated 05.07.2022 reported in 2022-III-LLJ-487(Mad) has fixed the cut off date as 20.11.2017. The Hon'ble Division Bench has held that the government constituted Equivalency Committee to analyze the issue and report the same. Then the Committee had submitted a report that the pre-foundation course and foundation is not equivalent to 10<sup>th</sup> and 12<sup>th</sup>. The government had accepted the report through G.O.Ms.No.107, P&AR Department, dated 18.08.2009. Subsequently through G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017 has declared that



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pre-foundation course and foundation is not equivalent to 10<sup>th</sup> and 12<sup>th</sup>. Hence the Hon'ble Division Bench had held since through G.O.Ms.No.107 the government had only accepted the Equivalency Committee's report, but it is only through G.O.Ms.No.144 the Government has declared that pre-foundation course and foundation course is not equivalent to 10<sup>th</sup> and 12<sup>th</sup>. Hence the cut off date for not recognizing the pre-foundation and foundation course is only 20.11.2017. the relevant portion of the Division Bench judgment is extracted hereunder:

*“This Court is of the considered opinion that the government had recognized the pre-foundation course vide G.O.Ms.No.528, P and AR Department, dated 18.05.1985 and the said G.O. was in existence from 1985 onwards, subsequently there was a challenge to the open university degree and the High Court has held open university degree is not valid and pre-foundation course as not valid. When it was considered valid for the past twenty four years, then it was declared as invalid, the persons who are affected from this shift / change of qualification ought to be protected. As rightly pointed out by the appellants, the Government has taken eight long years after issuance of G.O.Ms.No.107, Personnel and Administrative Reforms Department, dated 18.08.2009, to issue G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017. It is only in G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017 the government has declared that the pre foundation course is not recognized equivalent to the pre-foundation course. The G.O.Ms. No. 107, Personnel and Administrative Reforms*



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*Department, dated 18.08.2009, has only accepted the recommendations of the Equivalence Committee. As rightly pointed out by the learned Counsel appearing for the appellants, the government has passed G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017 wherein it has been categorically held that the pre-foundation course as invalid. If it is so, then the date of issuance of the said G.O. Ms. No. 144 ought to be held as the cutoff date. Moreover, the pre-foundation course was closed down in the year 2012. In short the pre-foundation course was recognized in the year 1985, then in the year 2009 it was held by High Court that pre-foundation course is not equivalent, then equivalence committee has reported it is not equivalent, the government accepted the report in 2009 and finally it was declared in the year 2017. Hence, the mischief of invalidity has been eradicated in phased manner. Therefore, this Court is of the considered opinion that the cutoff date, is the date of issuance of G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017 i.e. 20.11.2017.”*

The judgments referred above had held that the said degree is recognized as per the prevailing provisions prior to the cut off date. In the present case the said degree is recognized during the year 1995-1996 and the petitioner has completed the said degree during the year 1995-1996. By apply the said ratio stated in the aforesaid judgments this Court is of the considered opinion the 5<sup>th</sup> respondent is entitled to relief.



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**9.** In view of the foregoing reasons, this Court is of the considered opinion that the petitioner is not entitled to any relief.

**10.** Accordingly, this Writ Petition stands dismissed. The 5<sup>th</sup> respondent shall continue in the same post with his educational qualifications until his retirement on attaining superannuation. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No  
Internet : Yes  
ksa

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**S.SRIMATHY, J**

**ksa**

**ORDER made in  
W.P.(MD)No.5161 of 2016**

**27.06.2023**