



W.P.(MD).No.11222 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.11222 of 2017

and

W.M.P.(MD).Nos.8606 and 8607 of 2017

M.Ragupathy

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Higher Education Department,
Fort.St.George,
Chennai – 9.

2.The Directorate of College Education,
O/o. the Directorate of College Educational Office,
DPI Compound,
Chennai – 6.

3.The Principal,
Government Arts College,
Paramakudi,
Ramanathapuram District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent in his proceedings in e.f.vz;.573/rp2/2016 dated 25.04.2017 and quash the same as illegal and consequentially to direct the respondents 1 & 2 to appoint the petitioner as College Librarian by recruitment by transfer of service in the light of G.O.Ms.No.11 Higher Education Department dated 03.02.2012 and G.O.Ms.No. 27 Higher Education Department dated 29.02.2012 within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar,
For M/s.Ajmal Associates.

For Respondents : Mr.R.Baskaran,
Additional Advocate General,
Assisted by,
Mr.S.Kameswaran,
Government Advocate.

ORDER

This Writ Petition is filed challenging the order dated 25.04.2017 with a consequential relief to direct the respondents 1 & 2 to appoint the petitioner as College Librarian by recruitment by transfer of service in the light of G.O.Ms.No.11 Higher Education Department dated 03.02.2012 and G.O.Ms.No.27 Higher Education Department dated 29.02.2012.



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2. The petitioner was working as Superintendent in the third respondent Government Arts College. Initially, he was appointed as Junior Assistant through TNPSC on 10.08.2001 and thereafter, promoted to various posts and at present, the petitioner is working in the promoted post of Superintendent from 22.02.2014. While serving in the said post, the petitioner after obtaining prior permission from the Department, has completed B.L.I.Sc., during November 2012 and M.L.I.Sc., during May 2015 and further completed NET during July 2016. Based on the said qualification, the petitioner is seeking to be appointed as College Librarian by recruitment by transfer.

3. Originally, there were no proper rules for recruiting to the post of “College Librarian” and the post was filled up through direct recruitment as well as the recruitment by transfer. There were several litigations filed by the non-teaching staffs to the post of College Librarian and those Writ Petitions were allowed, inspite of categorical submission by the Government, that there is no Rule or any Act which enables for recruiting non-teaching staff to the post of College Librarian. The Government after several litigations were forced to pass some Government Orders under the threat of Contempt Petitions granting



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promotion to the non-teaching staffs. Such Government Orders which the petitioner is relying are G.O.Ms.No.11 Higher Education Department dated 03.02.2012 and G.O.Ms.No.27 Higher Education Department dated 29.02.2012. On perusal of those Government Orders, it is seen that the non-teaching staffs who aspire to become College Librarian have filed Writ Petitions and obtained an order and under the Contempt Petition No.1896 of 2011 dated 10.02.2012, the said Government Orders was passed.

4. The aforesaid Government Orders were passed inspite of the Government Order, the G.O.Ms.No.104 Higher Education F2 Department dated 18.05.2009, wherein through this G.O.Ms.No.104, there is an amendment to the Rules which says the College Librarian post, is the direct recruitment and there cannot be any recruitment by transfer at all. In spite of this Government Order, there are several Court Orders.

5. The learned counsel appearing for the petitioner referred to the Court orders passed in W.P.(MD).Nos.14682 and 14683 of 2012. On perusal of this Court order, it is seen that there is no reference to G.O.Ms.No.104 at all. Once the Rule is amended and the claim of the petitioner cannot be entertained



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dehors Rules. Therefore, this Court is not inclined to entertain this Writ Petition.

6. Since the College Librarian post can be filled through direct recruitment, the petitioner is at liberty to participate in the selection process for the said post and the petitioner is eligible to be considered for the post of College Librarian as per rules. However, the petitioner cannot be allowed to claim the post of College Librarian through recruitment by transfer, since it is against the rules.

7. With the above observations, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions stand closed.

02.01.2023

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



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S.SRIMATHY, J.

Nsr

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