



W.P.No.1847 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.1847 of 2023
and
WMP Nos.1952, 1953 & 1954 of 2023

S.Latha

... Petitioner

-Vs-

- 1.The Joint Director of School Education
(Higher Secondary)
- 2.The Chief Educational Officer
Presidency Girls Higher Secondary School Campus
Egmore, Chennai 600 008.
- 3.The District Educational Officer (Secondary)
North Chennai
Villivakkam, Chennai 600 049.
- 4.The Secretary
K.C.Sankaralinga Nadar Higher Secondary School
Old Washerpet
Chennai 600 021.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent in O.Mu.No.6980/Aa3/2022



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dated 28.09.2022 and to quash the same and consequently, directing the respondents 1 to 3 to grant approval of promotion to the post of P.G. Assistant (Economics) in the sanctioned post in 3rd respondent School with effect from 26.02.2021, with all consequential and other attendant benefits including arrears of salary with interest.

For Petitioner : Mr.J.Jayamalan

For Respondents : Mrs.S.Mythraye Chandru
Special Government Pleader
for R1 to R3

No appearance for R4

ORDER

This writ petition has been filed challenging the proceedings of the 2nd respondent in O.Mu.No.6980/Aa3/2022 dated 28.09.2022 and for a consequential direction to respondents 1 to 3 to grant approval of promotion to the post of P.G. Assistant (Economics) in the sanctioned post in 4th respondent School with effect from 26.02.2021.

2.The case of the petitioner is that he was appointed as a B.T.Assistant (Social Science) in the 4th respondent School which is a Government aided School, on 04.01.2020. While in service, he applied for permission to study P.G., degree in Economics. On the permission granted by the 4th respondent School, the petitioner



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joined M.A (Economics) course in Annamalai University and completed the course in the year 2016.

3.A vacancy arose to the post of P.G. Assistant (Economics) in the 4th respondent School on 23.03.2019. The petitioner was eligible to apply for the said post since the feeder post is B.T. Assistant. The promotion was also granted by the 4th respondent School in the existing vacancy by order dated 26.02.2021. The petitioner also joined the said post and he started taking classes for the higher secondary students.

4.The 4th respondent forwarded the proposal to the department seeking for approval of the promotion granted to the petitioner. The proposal was forwarded by the 3rd respondent to the 2nd respondent. The 2nd respondent through the impugned proceedings dated 28.09.2022 returned the proposal saying that the petitioner is qualified as M.A (Economics) as cross major. Yet another reason that was assigned was that in the light of the pendency of the case before the Apex Court on the issue of granting sanction, the request made by the School cannot be considered. Therefore, the entire file was returned back to the 4th respondent School.

5.The petitioner aggrieved by the impugned Order passed by the 2nd respondent dated 28.09.2022, has filed the present writ petition before this Court.



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6.The 3rd respondent has filed a counter affidavit. The 3rd respondent has taken a stand that the petitioner had qualified M.A.degree in Economics as cross major. The other stand that has been taken by the respondents is that G.O.Ms.No.36, dated 30.01.2020 provides that P.G. Assistant post can be filled up only through direct recruitment and recruitment by transfer. The third reason that has been assigned is by quoting the Tamil Nadu Private Schools (Regulation) Rules 2003 which provides for a qualification for the post of P.G. Assistant and which is not possessed by the petitioner. In the light of these grounds taken in the counter, the respondents have sought for the dismissal of this writ petition.

7.Heard Mr.J.Jayamalan, learned counsel for petitioner, Mrs.S.Mythraye Chandru, learned Special Government Pleader for R1 to R3. There is no appearance for R4 either in person or through counsel.

8.This Court has carefully considered the submissions made on either side and the materials available on record.

9.The first ground that has been put against the petitioner is that he has qualified M.A. degree in (Economics) as cross major. It must be borne in mind that the petitioner had joined the post of P.G. Assistant (Economics) on 26.02.2021 and therefore, the Act and Rules that were in force on that date alone can be taken into consideration.



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10. The Tamil Nadu Recognized Private Schools (Regulation) Rules 1974 and in particular Annexure-V of the Rules in Chapter (IV) (4) talks about the qualification for the post of P.G. Assistant in academic subjects. On going through the same, it is seen that there is absolutely no bar in considering the candidature of a person with a cross major degree. This issue was considered by the Division Bench of this Court in W.P.No.1418 of 2014, by an order dated 19.02.2018, where it was held as follows:

3. The only issue is whether the petitioner, who holds a cross major degree, i.e., who is a B.Sc.[Physics] candidate, holds a Master Degree in English with B.Ed. qualification, is entitled to be appointed as P.G. Assistant in English. Two contentions are advanced before us. The first one is that in terms of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974 and in particular, under Annexure - V of the Rules in Chapter IV(4), the preference is to be given to those persons, who have studied the same subject in degree and Master's degree level. This Rule was considered by the Writ Court and was rightly held that there is no bar, for considering a candidate for appointment, as the Rule provides for grant of preference. Thus, there is no illegality in considering a person with cross major degree. Further, the Writ Court, took into consideration the decision of the Hon'ble Division Bench of this Court in Director of School Education, Chennai - 6 and others v. Geldon Wifred Viole and another reported in 2009(2) TLNJ 101 (Civil) and allowed the writ petition.

4. In the light of the finding recorded by the Writ Court and



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the decision of the Division Bench rendered to therein and as there is no prohibition for considering a cross major degree candidate, we find that the appellants have not made out any ground, to interfere in the order passed in the writ petition. Accordingly, the writ appeal fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

11. In view of the above, there is absolutely no bar for considering the candidature of the petitioner even though he has a cross major degree. The rule only provides for if in case there are persons who have studied the same subject in U.G., and P.G. level, preference must be given to them. This rule is not applicable to the facts of the present case.

12. The next issue pertains to G.O.Ms.N.36 dated 30.01.2020 which has been relied upon by the respondents. This Government Order pertains to the teachers working in the Government Schools and this Government Order will not apply to the Government aided Schools.

13. The third issue is with regard to the 2023 Rules that are relied upon by the respondents. The qualification that has been fixed for P.G. Assistants in the 2023 Rules will not be relevant to the case in hand since the petitioner has joined the post of P.G. Assistant (Economics) in the year 2021 itself. Therefore, the 2023 Rules cannot be put against the petitioner. This Court has already found that the petitioner



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was eligible as per the existing rule.

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14.The last issue to be considered is with regard to the ground stated in the impugned order as if the issue is pending before the Apex Court. The Apex Court has already disposed of the appeal by an order dated 16.02.2024 and the relevant portion is extracted hereunder:

4.The suggestion made by the two senior counsel to this Court is to relegate the parties to the pending proceedings in the Madras High Court. It is however submitted that the Division Bench should limit itself to the core direction given in sub-clause (i) of paragraph 95 of the impugned judgment dated 31.03.2021 in the Writ Appeal (MD) No.76 of 2019 and need not be concerned with the other aspects in the earlier judgment (31.3.2021).

15.It is quite apparent from the above order that except for the core direction that was given in sub-clause (i) of paragraph 95 of the judgment of the Division Bench dated 31.3.2021, the other directions were not interfered. Sub clause (i) of the judgment of the Division Bench deals with the teaching grant for the additional staff employed already in aided school. This has no relevance to the facts of the present case since the case in hand pertains to the sanction that has been sought for the promotion of the petitioner in the sanctioned post of P.G. Assistant (Economics).

16.In the light of the above discussion, This Court finds that the impugned



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proceedings of the 2nd respondent in O.Mu.No.6980/A13/2022 dated 28.09.2022, is hereby quashed. There shall be a direction to the 2nd respondent to grant approval to the promotion of the petitioner to the post of P.G. Assistant (Economics) in the 4th respondent School with effect from 26.02.2021 and all the consequential and attendant benefits shall also be paid. This process shall be completed by the 2nd respondent within a period of eight weeks from the date of receipt of copy of the order.

17.In the result, this writ petition is allowed with the above directions. costs. Consequently, connected miscellaneous petitions are closed.

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Internet: Yes

Index: Yes/No



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N.ANAND VENKATESH. J.,

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