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W.P.No.2434 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.2434 of 2023

W.M.P.Nos.2529 & 2532 of 2023

T.Aasif Ahmed

...Petitioner

-Vs-

1.The Director of Collegiate Education,
577, Anna Salai,
Saidapet,
Chennai-15.

2.The Regional Joint Director Collegiate Education,
Gandhi Nagar,
Vellore-6.

3. Mazharul Uloom College,
Rep. By its Secretary and Correspondent,
Reddy Thoppu,
Ambur,
Thirupathur District-635 802.

4. The Principal,
Mazharul Uloom College,
Reddy Thoppu,
Ambur,
Thirupathur District.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 22.11.2022 and the order 09.01.2023 in Na.Ka.No.2985/Aa1(C2)/2014-2023 issued by the 2nd respondent and the order 020/B/Estb/2023 dated 21.01.2023 of the 3rd respondent, quash the same and to grant the petitioner a pay fixation as per the order dated 29.10.2022 issued by the 2nd Respondent granting career advancement from 04.12.2017 with all other consequential and monetary benefits and not to insist the petitioner to pass Second-Class Language Test in Tamil.

For petitioner	: Mr.Ajay Khose
For respondents 1 & 2	: Mr.K.Surendran Additional Government Pleader
For respondent 3	: Mrs.S.P.Pavithra for M/s.Mcgan Law firm

ORDER

This writ petition has been filed challenging the order passed by the 2nd respondent and 3rd respondent dated 09.01.2023 and 21.01.2023 respectively and to quash the same and further direct to grant the petitioner a pay fixation as per the order dated 29.10.2022 issued by the 2nd respondent granting career advancement from 04.12.2017 with all other consequential monetary benefits.



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2. The 3rd respondent's college is a private aided minority college and governed by the TamilNadu Private Colleges (Regulation) Act, 1976.

The said college is receiving 100% grant from the Government of Tamilnadu for the five UG aided courses including B.A. (Corporate Economics). Based on the vacancies arose in the aided sanctioned posts in various subjects including the subject of B.A. (Corporate Economics), the 3rd respondent issued notification calling for applications for the appointment to the post of Assistant Professors for 7 vacancies in various Departments and subjects. The petitioner had applied for the appointment to the post of Assistant Professor B.A (Corporate Economics). The 3rd respondent selected the petitioner and appointed as Assistant Professor Corporate Economics. Accordingly, he had joined duty on 04.12.2013. The 3rd respondent's college is affiliated to Thiruvalluvar University and granted the petitioner's qualification approval by its proceedings dated 27.03.2014. In pursuant to which the 2nd respondent duly approved the appointment to the petitioner with effect from 04.12.2013 by its proceedings dated 14.10.2014. The petitioner had submitted his original certificates and approval was given to the petitioner's appointment subject to a condition



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that the petitioner should pass the Second-Class Language Test within the probationary period. The case of the petitioner is that passing of second-class language test in Tamil is not required for persons studied upto SSLC in Tamil medium and as such the 3rd respondent declared that the petitioner has successfully completed his probation as on 04.12.2015. Accordingly, it was also entered in the service register of the petitioner and countersigned by the 2nd respondent. Therefore, the service of the petitioner is confirmed with effect from 04.12.2015. After completion of his probation and apart from the annual increment, the petitioner was granted increments from 2015. He was also given pay revision as per the 7th Pay Commission revised Pay Rules of the Tamilnadu Government with effect from 01.01.2016 notionally and with the monetary benefits with effect from 01.10.2017. As per the Career Advancement Scheme (CAS) of University Grants Commission on completion of four years of service as Assistant Professor. The petitioner is entitled to be upgraded from level 10 to level 11, since the petitioner also passed Ph.D, degree. Hence, the petitioner fulfilled all the norms for such up-gradation in terms of the UGC regulations. Therefore, the 2nd respondent by its proceedings dated 29.10.2022 granted approval for upgrading his pay



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from level 10 to level 11 with effect from 04.12.2017. While being so, the 2nd respondent passed order dated 22.12.2022 thereby permitted the 3rd respondent to cancel the annual increment with effect from 01.10.2015 except annual increment given to the petitioner as on 01.10.2014. Further, directed the 3rd respondent to cancel the Career Advancement Scheme of UG and cancel the pay level from level 10 to level 11 by an order dated 21.12.2022 and making remarks against the petitioner and directed the petitioner to appear for second class language test conducted by the TNPSC as required under Rules in the Government Orders.

3. On perusal of the records revealed that the petitioner had studied Standard 1 to 5 with Tamil as a subject and he had studied from 6th standard to SSLC in Tamil medium by choosing Urdu as 2nd language. Therefore, his probation was considered and the probation of the petitioner was duly declared and he was sanctioned Annual Increments.

4. On perusal of the counter affidavit filed by the 2nd respondent revealed that the petitioner had studied 6th standard to 10 standard in Tamil



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medium. On verification showed that the petitioner had studied Urdu as second language in SSLC and High Secondary Education. Therefore, the question arises that how he can get the sound of Tamil Language and it clearly shows that the petitioner has not studied Tamil as Language. He also relied upon the Tamilnadu Government Servants (conditions of Service) Act, 2016. Accordingly, selected and appointment on or after 09.02.1996 required to pass the second class language test in Tamil as referred to in Sub-Section (1) of Section 22 conducted by the appointing authority, as the case may be, within a period of two years from the date of his appointment. If he fails to pass said Language Test within the said period of two years, he shall be discharged from service. Whereas the petitioner is appointed in the year 2013 as Assistant Professor in B.A (Corporate Economics). The Tamilnadu Government Servants (Conditions of Service) Act, 2016 came into effect in the year 2016, prior to which the Tamilnadu State and Subordinate Service Rules applicable to the petitioner. It is relevant to extract Rule 12-A of Tamilnadu State and Subordinate Service Rules:

"12-A. Linguistic qualification: (a) No person shall be eligible for appointment to any service by direct recruitment unless



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he has an adequate knowledge of the official language of the State, namely, Tamil:

Provided that a person, being otherwise qualified for appointment to the post to which recruitment is to be made, may apply for recruitment to the post, despite the fact that, at the time of such application, he does not possess an adequate knowledge of Tamil.

Explanation for the purpose of this rule, a person shall be deemed to have an adequate knowledge of Tamil, if

(i) In the case of a post for which the educational qualification prescribed is the minimum general educational qualification and above, he has passed the S.S.L.C. Public Examination or its equivalent examination with Tamil as one of the languages: or studied the High School Course in Tamil Medium and passed the S.S.L.C. Public Examination or its equivalent Examination in Tamil Medium; or passed the Second Class Language Test in Tamil conducted by the Tamilnadu Public Service Commission."

Thus it is clear that as per the explanation, person who studied the high school course in Tamil medium and passed SSLC Public examination shall be deemed to have adequate knowledge in Tamil. The petitioner had applied his school studies from 1st Standard to 5th Standard with Tamil as a



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Subject and he had studied from 6th standard to SSLC in Tamil medium and passed in the SSLC Examinations. Therefore, the passing of second class language Tamil Test is not required for the petitioner as per Rule 12A of the General Rules for the Tamilnadu State and Subordinate Services.

5. In view of the above, the orders issued by the 2nd respondent and 3rd respondent dated 22.12.2022 and 21.01.2023 respectively cannot be sustained and liable to be quashed. Accordingly, the order issued by the 2nd and 3rd respondents dated 22.12.2022 and 21.01.2023 respectively are quashed. It is made clear that the petitioner is entitle for all other monetary benefits as per the order dated 29.10.2022 passed by the 2nd respondent. Further, the 2nd respondent is directed to disburse all the service benefits and arrears if any within a period of two weeks from the date of receipt of copy of this order.



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6. With the above direction, this writ petition is allowed.

Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes/No
Speaking/Non-Speaking Order
Neutral Citation : Yes/No
gvn

Note:

Issue order copy on 17.04.2024



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G.K.ILANTHIRAIYAN,J.
gvn

To

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