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W.P.No.26748 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	:	04.01.2024
Pronounced on	:	19.01.2024

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.26748 of 2010

J.Muralidhar

...Petitioner

Vs.

1. Corporation of Chennai,
Represented by Commissioner,
Rippon Building,
Chennai – 600 003.

2. Appointment Committee,
Corporation of Chennai,
Rippon Building,
Chennai – 600 003.

3. Government of Tamil Nadu,
Represented by Secretary,
Personnel cum Administrative Reform Department,
Fort St. George,
Chennai – 600 009.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the concerned records from the 3rd and 1st respondent, quash G.O.Nilai.No.107 dated 18.08.2009, Personnel and Administrative Reforms (M) Department of the 3rd respondent as contrary to Rule No.2 of the University Grants Commission, (the minimum standards of



W.P.No.26748 of 2010

instructions for the grant of the first degree through non-formal/distance education in the faculties of Arts, Humanities, Fine Arts, Music, Social Science, Commerce and Science) Regulations, 1985 and consequently quash the order of the 1st respondent dated 14.05.2010 bearing Po.thu.na.ka.no.E2/11825/2010 in so far as declining promotion to the petitioner to the post of Additional Revenue Officer on the ground that the petitioner acquired B.A. Degree in Open University without completing the schooling and that he has not completed 3 years service as Assistant Revenue Officer as illegal arbitrary and contrary to law and consequently direct the 1st and 2nd respondent to promote the petitioner to the post of Additional Revenue Officer from the date when his immediate junior were promoted to the post of Additional Revenue Officer, with all consequential benefits.

For Petitioner : Mr.Balan Haridas

For Respondents : Mr.S.Gopinathan
Additional Government Pleader (For R1&R2)

Mr.Tippusultan,
Government Advocate (For R3)

ORDER

This Writ Petition is filed for calling for the records from the 3rd and 1st respondent, and for quashing G.O.Nilai.No.107 dated 18.08.2009, Personnel and Administrative Reforms (M) Department of the 3rd respondent as contrary to Rule No.2 of the University Grants Commission, (the minimum standards of instructions for the grant of the first degree through non-formal/distance



W.P.No.26748 of 2010

education in the faculties of Arts, Humanities, Fine Arts, Music, Social Science, Commerce and Science) Regulations, 1985 and for quashing the order of the 1st respondent dated 14.05.2010 bearing Po.thu.na.ka.no.E2/11825/2010 insofar as declining promotion to the petitioner to the post of Additional Revenue Officer, on the ground that, petitioner acquired B.A. Degree in Open University without completing the schooling and that he has not completed 3 years service as Assistant Revenue officer as illegal, arbitrary and contrary to law and consequently, direct the 1st and 2nd respondent to promote the petitioner to the post of Additional Revenue Officer from the date when his immediate juniors were promoted to the post of Additional Revenue Officer, with all consequential benefits.

2. Petitioner joined respondent corporation during the year 1974 as a Typist. At that point of time, he passed SSLC with typewriting higher in Tamil and English. He joined Pre-University Course (PUC) during the year 1975 at Pachaiyappa College, Chennai. The course duration was two years. Though he completed the course, he had not cleared all the papers. He was promoted as Assistant during the year 1979. He applied for B.A. Degree in History, through Institute of Correspondence Education, University of Madras. Since he could not complete PUC, he was given provisional admission on 21.08.1998, on



W.P.No.26748 of 2010

condition that his admission will be confirmed only if he passes the entrance test. He passed the entrance test and was granted admission in B.A., History course. He completed B.A., History in the year 1993. The degree acquired by him through distance education is in accordance with the UGC Regulation, 1985. His degree is equivalent to the degree obtained in a regular course. He was promoted as License Inspector in the year 1995 and was promoted as Assessor in the year 1998 and Assistant Revenue Officer on 21.01.2009. The promotion was based on seniority.

3.The 1st and 2nd respondent held that he is not eligible for promotion to the post of Additional Revenue Officer on the ground that, he passed B.A. degree through Open University system without completing PUC and also based on G.O.Nilai.No.107, Public and Administrative Reforms (M) Department issued by the 3rd respondent. It is also stated that he has not completed three years of qualifying service in the post of Assistant Revenue Officer. 1st and 2nd respondents have promoted his juniors, who have completed 8 months of service as Assistant Revenue Officer. In the said circumstances, the present Writ Petition is filed.

4.Learned counsel for the petitioner submitted that petitioner was



W.P.No.26748 of 2010

promoted to the post of License Inspector, then to the post of Assessor and to the post of Assistant Revenue Inspector, on the basis of the B.A. degree obtained by him through distance education. Therefore, it is not now open to the respondents to say that, on the basis of the G.O.Nilai.No.107, Public and Administrative Reforms (M) Department, petitioner cannot be considered for further promotion for the reason that, he has not completed his degree in the scheme of 10+2+3. Petitioner is retired now. He would get only a notional promotion and pensionary benefits. He further submitted that, G.O.Nilai.No.107, Public and Administrative Reforms (M) Department cannot be made applicable to the respondent Corporation employees, unless it is adopted by a resolution passed by the Corporation. In support of his submissions, he produced judgment of this Court in the case of ***G.Ramesh Vs. State of Tamil Nadu & ors*** reported in [1991 2 LLJ 516].

5.In reply, learned counsel for the respondents submitted that petitioner appointment as Typist was based on his educational qualification of SSLC. The minimum qualification required for License Inspector is a degree. Since petitioner had B.A. degree obtained through distance education, he was promoted as Assistant in the year 1979, License Inspector in the year 1995 and Assessor in the year 1998 and Assistant Revenue Inspector in the year 2009.



W.P.No.26748 of 2010

However, things have changed after passing of G.O.Nilai.No.107, Public and Administrative Reforms (M) Department. As per this Government Order, only those who have completed their degree after completing +2 alone would be entitled for appointment in Government employment. This Government Order was upheld by this Court in ***T.L.Muthukumar and ors Vs. The Registrar General, High Court of Madras and another*** in W.P.No.18729 of 2010. It was reiterated by this Court in the case of ***J.Gopikrishna Vs. The Teachers Recruitment*** in W.A.No.99 of 2020.

6.Considered the rival submissions and perused the records.

7.The facts relating to the appointment of the petitioner as Typist in the year 1974 based on his SSLC qualification and his promotions as a License Inspector, Assessor and Assistant Revenue Officer based on the B.A. degree obtained by him in distance education, are all not disputed. In fact, his promotion to the post of License Inspector, Assessor and Assistant Revenue Officer have been given on the basis of the B.A. degree obtained by him through distance education. But these promotions had taken place prior to the passing of G.O.Nilai.No.107, Public and Administrative Reforms (M) Department. After passing of G.O.Nilai.No.107, Public and Administrative



W.P.No.26748 of 2010

Reforms (M) Department on 18.08.2009, things have changed. It is now very well settled that, persons who have passed degree under the scheme of 10+2+3 are alone entitled for appointment in Government offices for a post requiring the qualification of a degree.

8.As rightly pointed out by the learned counsel for the respondents that the validity of G.O.Nilai.No.107, Public and Administrative Reforms (M) Department was upheld by this Court in ***T.L.Muthukumar and ors Vs. The Registrar General, High Court of Madras and another*** in W.P.No.18729 of 2010 and it has been reiterated in many other judgments as well.

The relevant portion of the judgment in ***J.Gopikrishna Vs. The Teachers Recruitment*** in W.A.No.99 of 2020 reads as follows,

“11. The learned Additional Advocate General would also submit that insofar as the validity of G.O. (Ms)No.107, fixing the pattern of 10+2+3 is concerned, it has already been testified before this Court in the matter of T.L.Muthukumar and others Vs. The Registrar General, High Court of Madras and another in W.P.No.18729 of 2010, where, a Division Bench of this Court had upheld the validity of G.O.(Ms).No.107 and had rejected the plea



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made therein by a job seeker or the employee who sought for promotion.

12. The learned Additional Advocate General has also relied upon few more Division Bench judgments on the similar line (i) 2014-2-L. W.1005 in the matter of J.Joseph Irudayaraj Vs. Joint Director of School Education and others (ii) W.A.No.805 of 2014 dated 06.08.2014 in the matter of The Chairman, Teachers Recruitment Board and another Vs. V.Kanimozhi and (iii) W.A.No.40 of 2021 dated 28.04.2022 in the matter of M.Pushpa Vs. The Director of School Education and others. By relying upon these judgments, the learned Additional Advocate General would contend that, the issue raised in this writ appeal, as has been stated earlier, is no more res-integra as it has been concluded by more than four or five judgments and the issue cannot be canvassed once again before this Court as if a new issue and nothing can be deviated from the consistent view already been taken by this Court in those judgments, he contended.

22. In our latest judgment by our Bench in the matter of S.Rajkumar vs The State of Tamil Nadu, Represented by its Secretary to Government and another in W.A.No.2317 of 2012 dated 22.11.2023, a similar issue when came up for consideration, we have held that, insofar as whatever



W.P.No.26748 of 2010

the qualification acquired by anyone including UG or PG degree awarded by the University and recognized by the provisions of the University Grants Commission Act by the University Grants Commission, definitely such kind of degree must be a valid degree in the eye of law.

25. All other Division Bench judgments quoted herein above also have taken the similar view, in fact consistently, and therefore, there could be no deviation on the legal position.”

9.Thus, G.O.Nilai.No.107, Public and Administrative Reforms (M) Department and the aforesaid judgment in W.A.No.99 of 2020 make it clear that, one has to complete 10+2+3 for claiming public employment, on the basis of degree qualification. Unfortunately, for the petitioner, he did not complete PUC and therefore, he cannot be held to have a valid degree for considering him to a post, which requires degree qualification.

10.In the said circumstances, petitioner's prayer for considering him for the post of Additional Revenue Inspector cannot be considered, though he was already promoted to the posts of License Inspector, Assessor and Assistant Revenue Officer on the basis of his Open University degree.



W.P.No.26748 of 2010

11.Sofar as the judgment relied by the learned counsel for the petitioner for the proposition that G.O.Nilai.No.107, Public and Administrative Reforms (M) Department, cannot be made applicable to the Corporation employees, unless it is adopted by a resolution passed by the Corporation is concerned, this Court is of the view that, there is no such proposition waylaid in the judgment in the case of ***G.Ramesh Vs. State of Tamil Nadu & ors*** reported in [1991 2 LLJ 516]. All that was referred is that, the State Government has to make rules with reference to Class 1-A, 1-B and Class II officers of the Corporation of Madras which alone will govern the services of such officers. In that context, it was said that the rule framed for the State and Subordinate Services or any other general rules pertaining to State Services will not automatically be applicable to the service of Corporation. Therefore, the submission of the learned counsel for the petitioner that G.O.Nilai.No.107, Public and Administrative Reforms (M) Department cannot be made applicable to employees of Corporation without a resolution, cannot be accepted.

12.In the result, this Court finds that there is no merits in this Writ Petition and therefore, this Writ Petition stands dismissed. Parties are directed to



W.P.No.26748 of 2010

bear their own costs.

WEB COPY

19.01.2024

Index: Yes/No

Speaking/Non speaking order
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G.CHANDRASEKHARAN.J.,

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W.P.No.26748 of 2010

Pre-Delivery Order in
W.P.No.26748 of 2010

19.01.2024