



W.P.No.16686 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 02.02.2024

Pronounced on : 14.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.16686 of 2023

R.Premalatha

... Petitioner

Vs.

1.State of Tamilnadu,

Rep. By its Principal Secretary to Government,
School Education Department,
Fort St.George, Secretariat,
Chennai 600 009

2.The Commissioner,

Directorate of School Education,
DPI Campus, College Road,
Chennai 600 006

3.The Director,

State Council of Educational Research and Training (SCERT),
DPI Campus, College Road,
Chennai 600 006

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned Letter issued by the 1st respondent in Letter (MS) No.233/ Kaaapa/ 2022 dated 29.12.2022 and to quash the same and consequently directing the respondents to grant promotion to the petitioner in the post of Senior Lecturer from the relevant panel year 2012 on par with her batch mates in other subjects, by considering the M.P.Ed. Degree the relevant qualification for the post of Lecturer with



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consequential promotion to the higher post, with all consequential and other attendant benefits, within a time frame to be fixed by this Court

For Petitioner : Mr.G.Sankaran,
Senior Counsel
for Mr.S.Nedunchezhiyan

For Respondents : Mr.S.Arumugam,
Government

ORDER

This writ petition has been filed challenging the letter issued by the first respondent dated 29.12.2022 thereby rejected the request made by the petitioner seeking promotion to the post of Senior Lecturer.

2. The petitioner is qualified with B.Sc., B.Ed. (Maths), M.A.(Sociology), M.A.(History), M.P.Ed. and M.Phil. in Physical Education. She was appointed as Lecturer in the Department of Physical Education in District Institute of Education and Training (hereinafter called as 'DIET') on 03.10.2000. Her services were regularised and she successfully completed her probationary period. Though Service Rules applicable to teaching and administrative posts in School Education Department, for the Teacher Training Institute, DIET, subsequently a



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separate Directorate was formed for looking after the Teacher Education vide GO.Ms.No.748 Education Department dated 04.06.1990. Subsequently, another order was passed in GO.Ms.No.98 dated 13.08.1997 thereby streamlined the recruitment procedure for various categories of posts filled up by promotion and direct recruitment through Teachers Recruitment Board. The Government framed *Adhoc* Rules for Tamilnadu Teacher Educational Service notified in GO.Ms.No.133 School Education Department dated 14.06.2007. As per the Service Rules, the qualifications for the post of Senior Lecturer and Lecturer in Directorate of Teacher Education, Research and Training and District Institute of Education and Training are given as follows:

<i>Posts</i>	<i>Method of Recruitment</i>	<i>Qualifications</i>
1.Senior Lecturers in Directorate of Teacher Education Research and Training and District Institutes of Education and Training	Direct Recruitment	(i) Masters Degree with not less than 50% marks; and (ii) M.Ed. Degree with not less than 55% marks;
	----- Promotion and recruitment by transfer	----- (i) Masters Degree with not less than 50% marks; and (ii) M.Ed. Degree with not



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<i>Posts</i>	<i>Method of Recruitment</i>	<i>Qualifications</i>
		less than 55% marks; (iii) Teaching experience for a period of not less than five years as Principal in any recognized Teacher Training Institute or Lecturer in Directorate of Teacher Education Research and Training and District Institutes of Education and Training in the State.
2.Lecturers in Directorate of Teacher Education Research and Training and District Institutes of Education and Training	Direct Recruitment and recruitment by transfer	(i) Masters Degree with not less than 50% marks in Tamil, Telugu, Malayalam, Urdu, English, Mathematics, Physics, Chemistry, Biology, Botany, Zoology, History and Geography and (ii) M.Ed. for Lecturers in Languages or subjects and M.P.Ed. for Lecturers in Physical Education, with not less than 55% marks.

2.1 Thus it is clear that as per the Service Rules, apart from Master Degree, candidate must possess M.Ed. for Lecturers in languages



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or subjects and M.P.Ed for Lecturers in Physical Education with not less than 55 marks for recruitment to the post of Lecturer in DIET. As far as the post of Senior Lecturer is concerned, it is to be fill up by direct recruitment or by promotion and recruitment by transfer. The qualification is Master Degree and M.Ed. with not less than 55 marks for promotion to the post of Senior Lecturer. The petitioner was appointed as Lecturer in Physical Education based on the qualification of Master degree and M.P.Ed degree. Any lecturer in language and subjects will be eligible for promotion to the post of Senior Lecturer based on seniority and the qualification is Master degree and M.Ed degree. Though the petitioner is qualified with M.P.Ed on par with M.Ed degree for other subjects and eligible for promotion to the post of Senior Lecturer, she was not considered for promotion to the post of Senior Lecturer for the reason that she is not possessing M.Ed degree. While preparing seniority list for the panel to the post of Senior Lecturer, the petitioner's name was included with remarks as 'No M.Ed'.

3. Mr.G.Sankaran, the learned Senior Counsel appearing for the petitioner submitted that for physical education, M.P.Ed is the



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relevant subject. Unless a person is qualified with M.P.Ed, he is not eligible to be appointed in Physical Education Department. Therefore, M.P.Ed should also be equivalent to M.Ed and she is eligible to be promoted to the post of Senior Lecturer. However, the petitioner was not considered for promotion to the post of Senior Lecturer on the ground that GO.Ms.No.133 dated 14.06.1967 does not include M.P.Ed qualification for promotion to the post of Senior Lecturer. The Lecturer in Physical Education qualified with M.P.Ed cannot acquire M.Ed qualification. It is not available through correspondence course and as per prohibition, the petitioner could not able to undergo regular M.Ed course. The Hon'ble Supreme Court of India repeatedly held that to create promotional avenue for a Government servant, by making necessary amendment in the promotion policy, which remains to be a condition of service. The petitioner holding the post of Lecturer in Physical Education cannot be discriminated, particularly when all other batch mates of the year 2000 appointed as Lecturer in language or subjects were promoted to the post of Senior Lecturer and Principal etc. The petitioner has completed



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her 23 years of service in the very same post of Lecturer in Physical Education. Now she is about to retire on 31.05.2024 without any further promotion to the post of Senior Lecturer.

4. The third respondent filed counter and the learned Government Advocate appearing for the respondents submitted that though the petitioner is qualified with B.Sc., B.Ed. (Maths), M.A.(Sociology), M.A.(History), M.P.Ed. and M.Phil. in Physical Education, she is not qualified with M.Ed. Degree. As per GO.Ms.No.133 School Education Department dated 14.06.2007, to the post of Senior Lecturer, qualification is Master degree with not less than 50 marks and teaching experience for a period of not less than five years. In fact, the Tamilnadu Physical Directors Association filed writ petition for direction to include the members of petitioner's association working as Lecturer based on their seniority by granting time to complete M.Ed qualification in WP.No.4376 of 2007. This Court by order dated 08.02.2008, rejected the claim made by them on the ground that the court cannot issue writs in violation of law. If any member is qualified with



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M.Ed.degree, he shall be considered for promotion to the post of Senior Lecturer. Therefore, M.Ed is mandatory qualification for direct recruitment and promotion to the post of Senior Lecturer in the State Council of Educational Research and Training and District Institute of Education Training.

5. Heard, the learned counsel appearing on either side.

6. The petitioner was appointed as Lecturer in the Department of Physical Education in DIET on 03.10.2000. Till today, she is working in the same post without any promotion to the post of next higher post of Senior Lecturer. Those who were appointed along with the petitioner as Lecturer in the year 2000 have been promoted to the post of Senior Lecturer. They were appointed as Lecturer in language and other subjects and were qualified with Master degree and M.Ed. Degree. Whereas the petitioner was appointed as Lecturer in Physical Education in the Department of Physical Education and she had been qualified with Master degree and M.P.Ed. i.e.Master of Physical Education. As per



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GO.Ms.No.133 School Education Department dated 14.06.2007, the qualification to the post of Senior Lecturer is Master Degree with not less than 50 marks and M.Ed degree with not less than 55 marks. Insofar as promotion and recruitment by transfer is concerned, Master Degree with not less than 55 marks and M.Ed degree with not less than 55 marks and teaching experience for a period of not less than 5 years in any recognised Teacher Training Institute or Lecturer in Directorate of Teacher Education Research and Training and DIET in the State. Though the petitioner had qualification of PG degree and M.P.Ed degree along with 5 years experience as Lecturer in DIET, she has not possessed M.Ed. Degree. When the petitioner was appointed as Lecturer in Physical Education Department, she cannot acquire M.Ed. qualification in the Physical Education. Further, the Master of Physical Education is the highest degree in the Physical Education Department.

7. When the petitioner was appointed as Lecturer in the Physical Education Department, she need not study M.Ed to acquire Senior Lecturer. When for the post of Lecturer, the candidate should



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possess Master degree and M.Ed degree and to the post of Senior Lecturer, Master degree, M.Ed degree and teaching experience are required, the petitioner is also entitled to be promoted to the post of Senior Lecturer since she also possessed M.P.Ed. equivalent to M.Ed. and it is the constitutional obligation guaranteed under Articles 14 and 16 of Constitution of India to create promotional avenue for a Government servant by making necessary amendment in the promotion policy which appears to be a condition of service. The petitioner cannot be discriminated when all other her batch mates of the year 2000 appointed as Lecturer in language / subjects were granted promotion to the post of Senior Lecturer and Principal.

8. The learned Senior Counsel appearing for the petitioner relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***Dr.Ms.O.Z.Hussain Vs. Union of India*** reported in ***1990 (Supp) Supreme Court Cases 688***, wherein it is held as follows:

This Court, has on more than one occasion, pointed out that provision for promotion increases efficiency of the public service while stagnation reduces



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efficiency and makes the service ineffective. Promotion is thus a normal incidence of service. There too is no justification why while similarly placed officers in other Ministries would have the benefit of promotion, the non-medical 'A' Group scientists in the establishment of Director General of Health Services would be deprived of such advantage. In a welfare State, it is necessary that there should be an efficient public service and, therefore, it should have been the obligation of the Ministry of Health to attend to the representations of the Council and its members and provide promotional avenue for this category of officers. It is, therefore, necessary that on the model of rules framed by the Ministry of Science and Technology with such alterations as may be necessary, appropriate rules should be framed within four months from now providing promotional avenue for the 'A' category scientists in the non-medical wing of the Directorate.

Thus it is clear that the provision for promotion increases efficiency of the public service while stagnation reduces efficiency and makes the service ineffective. Promotion is thus a normal incidence of service.

9. In the case of ***State of Tripura and others Vs. K.K.Roy***



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reported in *(2004) 9 SCC 65*, the Hon'ble Supreme Court of India held that it is not a case where there existed an avenue for promotion. It is also not a case where the State intended to make amendments in the promotional policy. Respondents being a State within the meaning of Article 12 of Constitution of India should have created promotional avenues for the respondent having regard to its constitutional obligations adumbrated in Articles 14 and 16 of Constitution of India. That apart, the Government framed Adhoc Rules in GO.Ms.No.133 School Education Department dated 14.06.2007. Subsequently, no rules have been framed by any modification.

10. In view of the above, the impugned letter dated 29.12.2022 of the first respondent is quashed and this writ petition is allowed. The respondents are directed to make necessary amendments in the promotion policy as observed above to create promotional avenue for the persons who have been appointed in the post of Lecturer in Physical Education Department with the qualification of Master degree and M.P.Ed degree within a period of eight weeks from the date of receipt of copy of this



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order and promote the petitioner to the post of Senior Lecturer from the year 2012 on par with her batchmates appointed as Lecturer in language or subjects by considering the M.P.Ed degree as the relevant qualification for the post of Senior Lecturer with all consequential and other attendant benefits within a period of four weeks thereafter. There shall be no order as to costs.

14.03.2024

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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To

- 1.Principal Secretary to Government,
State of Tamilnadu,
School Education Department,
Fort St.George, Secretariat,
Chennai 600 009
- 2.The Commissioner,
Directorate of School Education,
DPI Campus, College Road,
Chennai 600 006
- 3.The Director,
State Council of Educational Research and Training (SCERT),
DPI Campus, College Road,
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