



W.P.No.15344 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.15344 of 2024

R. Ambikai

... Petitioner

Vs

1. The Government of Tamil Nadu
Rep.by its Secretary to Government
Municipal Administration and Water
Supply Department, Fort St.George,
Chennai 600 009.
2. The Director of Town Panchayat,
7 & 8 Floor (Urban Administration Office Campus)
Chennai 600 028.
3. The District Collector,
Coimbatore District,
State Bank Road, Gopalapuram,
Coimbatore - 641 018.
4. The Assistant Director of Town Panchayath
O/o.Collectorate of Coimbatore District,
State Bank Road, Gopalapuram,
Coimbatore 641 018.



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5. The Commissioner,
Sulur Town Panchayat,
Sulur, Coimbatore District 641 018.
Respondents

...

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Mandamus directing the respondents to consider the case of the petitioner and promote the petitioner to the post of overseer with all service and monetary benefits from the date on which her juniors were promoted to the post of overseer.

For Petitioner : Mr.D. Babu

For Respondents : Mr.V.P.R.Elamparithi
Addl. Government Pleader for R1 to R4

Mr.Stalin Abimanyu
Addl.Government Pleader for R5

ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus directing the respondents to consider the case of the petitioner and promote the petitioner to the post of overseer with all service and monetary benefits from the date on which her juniors were promoted to the post of overseer.



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2. The case of the petitioner is that the petitioner is a holder of Diploma in Civil Engineering (Architecture). By duly considering the same, by G.O.Ms.No.183 dated 19.09.2008 with due relaxation of rules, the petitioner was also given promotion as Work Inspector. Now, when the petitioner is due for the promotion to the next higher post of overseer/draughtsman the respondents are not considering the same and therefore the petitioner has made a detailed representation dated 02.11.2023. In spite of which, the petitioner's case has not been considered and hence he is before this Court.

3. The learned counsel appearing for the petitioner submitted that the petitioner has underwent the course which is called Diploma in Civil Engineering (Architecture). Later on, there is a modified course of Diploma in Architecture Assistantship which is only held to be not equivalent to Diploma in Civil Engineering (Architecture). The respondents are taking the said equivalence certificate and applied wrongly in the case of the petitioner.



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In any event, once the petitioner has been considered by relaxing the rules for the post of Work Inspector, now, belatedly the respondents cannot turn around and leave out the petitioner from considering him to the post of overseer.

4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 4 submitted that this question is no longer res-integra. The educational qualification of the petitioner is Diploma in Civil Engineering (Architecture). As per the recruitment rules for the post of Overseer, the candidate should possess Diploma in Civil Engineering. To ascertain the equivalency of the petitioner's Diploma, the matter was referred to appropriate authority and the appropriate authority had replied that it is the very same Diploma in Civil Engineering (Architecture) for which the name is changed as Diploma in Architecture Assistantship as per the AICTE norms and it has been held that the said Diploma is not equivalent to Diploma in Civil Engineering (Architecture). According to him, when the appropriate authority has held the same as not equivalent, the petitioner



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cannot subsequently approach this Court. He further submitted that the matter is no longer res-integra. Already this Court had considered the very same issue in W.P.No.40945 of 2006 by order dated 12.09.2022 and dismissed the similar writ petition. As a matter of fact by G.O.Ms.No.23 dated 12.01.2017, the Diploma is held to be not equivalent. As a matter of fact, there is also subsequent change in the recruitment rules by way of G.O.Ms.No.148 dated 07.10.2022 in and by which it is clearly stated that the Diploma in Civil Engineering or Mechanical Engineering or Electrical Engineering alone are qualified as far as the promotion is concerned.

5. In reply thereof, the learned counsel for the petitioner submitted that since the change of rule was only with effect from 17.10.2022, the same is not applicable to the petitioner.

6. I have considered the rival submissions made on either side and perused the materials available on record.



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7. The petitioner is claiming promotion as Overseer atleast w.e.f 17.10.2022 following the recruitment rules. The rule categorically requires that the candidate should possess Diploma in Civil Engineering, Mechanical Engineering or Electrical Engineering. The contention of the learned counsel for the petitioner is that in respect of the vacancies which arose prior to 17.10.2022 the said rule cannot be applicable to the petitioner. The said principle as laid down in the case of ***Y.V.Rangaiah Vs J.Sreenivasa Rao*** reported in (1983) 3 SCC 284 has been clarified by the Hon'ble Supreme Court of India in a recent judgment in the case of ***State of Himachal Pradesh Vs Raj Kumar***, reported in 2022 SCC Online SC 680. Therefore, the rule had come into force, when the rule came into force, the respondents have to make promotion only as per the rules. In any event, when an appropriate expert considered the equivalency and has categorically held that Diploma is not equivalent especially by a specific communication dated 07.12.2021, this Court cannot come to the rescue of the petitioner. Further, as rightly contended by the learned Additional Government Pleader appearing for the respondents 1 to 4, the issue has also been decided by the



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Hon'ble Supreme Court of India in ***Rajkumar's case*** as cited supra.

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8. For all the foregoing reasons, the petitioner's prayer in this writ petition is bound to fail and accordingly this writ petition stands dismissed.

No costs.

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Neutral Citation : yes/no
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D. BHARATHA CHAKRAVARTHY, J.

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