



W.P.No.24220 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 27.08.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.24220 of 2024
and
W.M.P.No.26471 of 2024

A.Madhan Kumar Felix,
Assistant Section Officer (Selection Grade),
University of Madras,
Chepauk,
Chennai – 600 005.

.. Petitioner

Vs.

University of Madras,
Represented by its Registrar,
Chepauk,
Chennai – 600 005.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent University to consider the claim of the petitioner for promotion to the post of Section Officer by taking into consideration the fact that he is fully qualified with 10+2+3 pattern of study and has clarified by the order of the Hon'ble Division Bench in W.A.No.997 of 2018 batch of cases vide order dated 08.03.2024 on the date when all his juniors are likely to be promoted with all monetary and service benefits.

For petitioner : Mrs.Dakshayini Reddy



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Senior Counsel
for Ms.S.Suneetha

For Respondent : Ms.A.Shabnam Banu
Standing Counsel

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the respondent University to consider the claim of the petitioner for promotion to the post of Section Officer.

2.The case of the petitioner is that the petitioner was appointed on compassionate grounds to the post of Assistant due to the death of his father while in harness. The petitioner joined duty in the post of Assistant with effect from 08.01.2007. The petitioner was subsequently promoted to the post of Assistant Section Officer with effect from 09.02.2012. The petitioner was thereafter granted selection grade in the post of Assistant Section Officer on completion of 10 years of service. The next avenue of promotion to the petitioner is to the post of Section Officer.

3.The further case of the petitioner is that his promotion was not considered on the ground that the petitioner had obtained his Under



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Graduate degree without undergoing 10 + 2 + 3 pattern of study. This is in view of the fact that G.O.Ms.No.107 dated 18.08.2009 had come into force and this was adopted by the University in the year 2011. Therefore, the petitioner studied +2 and completed in the year 2020. He thereafter completed B.A.History through Alagappa University in May, 2023. All this was done after getting prior permission from the University. Thus, the petitioner claims that he is fully qualified for promotion to the post of Section Officer from May, 2023 onwards.

4.The grievance of the petitioner is that the petitioner has not been considered for promotion to the post of Section Officer in spite of fulfilling all the requirements. The petitioner is also placing heavy reliance upon the judgment of the Hon'ble Division Bench in W.A.No.997 of 2018, etc., dated 08.03.2024 to support his claim. It is under these circumstances, the present writ petition has been filed before this Court seeking for appropriate directions.

5.When the matter came up for hearing on 19.08.2024, this Court directed the Standing Counsel for the respondent University to get written



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instructions. The matter was directed to be posted today for hearing.

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6. When the case was taken up for hearing, the learned Standing Counsel appearing on behalf of the respondent University produced the written instructions. In the written instructions / position note, it is stated as follows:

“10. It is ascertained from the above judgment as well as the legal opinion that the petitioner can be considered after the year in which he acquired the qualification in a manner contemplated under G.O.Ms.No.107. His name may be considered to the post of Section Officer prospectively i.e. after revising his seniority in the cadre of Assistant Section Officer on par with other Assistant Section Officers working on the date of his acquiring 10+2+3 pattern of qualification.

11. While perusing his promotion request dated: 18.03.2024, the Internal Audit of University of Madras has opined that he was promoted to the post of Assistant Section Officer without required qualification even after completion of 10 years. Hence, the date of regularization in the post of Assistant Section Officer shall be made only after acquiring the required qualification. The pay and seniority also shall be considered from that date itself.



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12. In view of the internal audit remarks, the certificate furnished by Thiru.A.Madhan Kumar Felix, Assistant Section Officer will be sent to the respective issuing authorities for verification of genuineness in order to regularize his post in the cadre of Assistant Section Officer. After receiving the genuineness, his seniority will be fixed in the cadre of Assistant Section Officer from the date of acquiring 10+2+3 pattern i.e. on May 2023 since he got ASO promotion on 09.02.2012 which is after the issuance of G.O.Ms.No.107, P & AR (M) Department dated: 18.08.2009 and adopted / implemented in the University of Madras by the Syndicate dated: 28.12.2011."

7. Heard the learned Senior Counsel for the petitioner and the learned Standing Counsel for the respondent.

8. The short issue that arises for consideration in the present writ petition is as to whether this Court has to issue directions to the respondent University to consider the candidature of the petitioner for promotion to the post of Section Officer.

9. Before going into the above issue, it will be more beneficial to



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take note of the judgment of the Hon'ble Division Bench in W.A.No.997 of 2018, etc., dated 08.03.2024. One of the main issue that was considered by the Hon'ble Division Bench is with regard to the outcome of G.O.Ms.No.107 dated 18.08.2009, which was adopted by the respondent University in the year 2011 and which insisted for the 10+2+3 pattern.

10.The Hon'ble Division Bench on considering the rival submissions, reached conclusions at paragraph No.72 of the judgment. For the purpose of this case, it will be more relevant to take note of clause (iii) & (iv) of paragraph No.72 which are extracted hereunder:

“(iii)As a sequel, the OUS Group candidates though not entitled for any further promotion either functionally or notionally, their promotions already earned either in the year 2014 or in any other year, such promotions shall not be disturbed and whatever the benefits accrued on them or earned by them by virtue of such promotions also neither be disturbed nor be recovered.

(iv)Insofar as W.P.No.26942 of 2022 is concerned, it is the claim of the writ petitioner that, subsequently, he has earned the qualification by adopting the method of



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10+2+3 pattern, i.e., passed 10th standard, 12th standard and then Degree, the claim made by the said petitioner in W.P.No.26942 of 2022 shall be considered by the University in accordance with the settled legal position as has been discussed herein above by adopting the method of 10+2+3 pattern on 10+2+3+2 pattern as the case may be for any such posts, for which such petitioner is otherwise entitled to based on the seniority. However, such promotion if any to be given to the petitioner, that shall be considered only prospectively from the date he has acquired such qualification one by one by adopting the 10+2+3 pattern and not before the date of acquiring such qualification. Therefore to that extent, the candidature of the said petitioner alone shall be considered by the University for necessary promotion.”

11.The above judgment of the Hon'ble Division Bench makes it clear that for those promotions which have been already earned either in the year 2014 or in any other year before that, such promotions should not be disturbed and whatever benefits have accrued in favour of the employee in terms of promotions or financial benefits, should not be disturbed. The Hon'ble Division Bench also made it clear that while considering the further promotion of such an employee, the University has to strictly adopt 10+2+3 pattern or 10+2+3+2 pattern and such promotion can be given only prospectively from the date on which the



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employee had acquired such qualification and not before the date of acquiring such qualification.

12.The above judgment was rendered by the Hon'ble Division Bench in a case involving the University of Madras and therefore, the directions issued by the Hon'ble Division Bench will have a lot of relevance in the case in hand.

13.The petitioner joined as an Assistant on 08.01.2007. To appoint a person to the post of Assistant, completion of Under Graduation is an essential qualification. When the petitioner was appointed in the year 2007, he had completed his 10th standard and without completing +2, the petitioner had completed Under Graduation in Computer Application from the University of Madras in May, 2003. Thereafter, the petitioner was promoted to the post of Assistant Section Officer with effect from 09.02.2012. This promotion is based on the seniority. The petitioner also got the selection grade in the post of Assistant Section Officer on completion of 10 years of service in that post.



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14.The Government Order in G.O.Ms.No.107 dated 18.08.2009 came to be issued during the interregnum and this Government Order insisted for qualification to be earned through 10+2+3 or 10+2+3+2 pattern. It has been noted in the judgment of the Hon'ble Division Bench that the University has adopted this Government Order through a resolution dated 28.12.2011. In the light of this development, the petitioner completing Under Graduation during the year 2003 without undergoing +2, cannot be considered for his future promotions. The petitioner ought to have completed 10+2+3 pattern in order to earn his future promotions.

15.The petitioner having realized the same, got the permission of the University of Madras and completed +2 during the year 2020. Thereafter, he completed B.A.History from Alagappa University in May, 2023.

16.The respondent University has taken a stand that they are now bound by the judgment of the Hon'ble Division Bench and that they are already in the process of verifying the claim made by the petitioner based



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on the certificates furnished by him. That apart, they are also in the process of regularizing him in the post of Assistant Section Officer from the date on acquiring 10+2+3 pattern from May, 2023. According to the University, the petitioner has obtained the promotion to the post of Assistant Section Officer only in the year 2012 and which is after the issuance of G.O.Ms.No.107 dated 18.08.2009 and which was adopted by the University with effect from 28.12.2011.

17.The operative portion of the order that will have a bearing to the facts of the present case has already been extracted *supra*. The Hon'ble Division Bench has made it clear that for those candidates who have already been given promotion though they are not entitled for any further promotion, their position must not be disturbed. The Hon'ble Division Bench in fact has discussed that the promotions that have been earned either in the year 2014 or in any other year should not be disturbed. While making this observation, the Hon'ble Division Bench was aware of the fact that the Government Order had come into force in the year 2009 and it has been adopted by the University in the year 2011 and in spite of the same, the Hon'ble Division Bench on the ground of equity, had



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directed that those persons falling under this group and who had acquired promotion should not be disturbed.

18.In view of the above, the promotion of the petitioner to the post of Assistant Section Officer on 09.02.2012, even though was made after the coming into force of G.O.Ms.No.107 dated 18.08.2009 which was adopted by the University of Madras on 28.12.2011, such promotion cannot be disturbed by the University of Madras. As a consequence, the promotion of the petitioner to the post of Assistant Section Officer with effect from 09.02.2012 cannot be disturbed and it cannot be attempted to be regularized from May, 2023 on the ground that the petitioner had acquired 10+2+3 pattern only during May, 2023. The promotion of the petitioner as Assistant Section Officer with effect from 09.02.2012 should not be disturbed and it should be kept in tact. Only the further promotion to the post of Section Officer will require the petitioner to undergo 10+2+3 pattern to claim this promotion.

19.In the light of above discussion, after May 2023, the petitioner will be entitled to be considered for promotion to the post of Section Officer, since the petitioner has acquired the 10+2+3 pattern. This finding



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is given by considering and following the order passed by the Hon'ble
Division Bench referred supra.

20.In the result, there shall be a direction to the respondent University to consider the promotion of the petitioner to the post of Section Officer, if he is otherwise qualified and pass necessary orders within a period of eight (8) weeks from the date of receipt of a copy of this order.

21.This Writ Petition is disposed of with the above directions. Consequently, the connected Miscellaneous Petition is closed. No costs.

27.08.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

University of Madras,
Represented by its Registrar,



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Chepauk,
Chennai – 600 005.

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N.ANAND VENKATESH, J.

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