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Review Application No.308 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM

THE HON'BLE Mr. JUSTICE S.S.SUNDAR
AND
THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

Review Application No.308 of 2024

R.J.Gajendra Kumar

.. Applicant

Vs.

1.The Government of Tamil Nadu
Rep. by its Additional Secretary to Government
Tourism, Culture and Religious Endowments Department
Secretariat, Chennai 600 009

2.The Commissioner of Tourism
Department of Tourism
Tamil Nadu Tourism Complex
No.2, Wallajah Road, Chennai 600 002

.. Respondents

Review Application filed under Order XLVII Rules 1 and 2 read with 114
CPC to review the judgment dated 06.06.2023 passed in W.A.No.1789 of 2022.

For Applicant : Mr.G.Rajagopalan
Senior Counsel
for Mr.Lourdu Paul Maurya

For Respondents : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.P.Balathandayutham
Special Government Pleader

ORDER



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(Made by S.S.SUNDAR, J.)

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This review application is filed seeking to review the judgment dated 06.06.2023 passed in W.A.No.1789 of 2022.

2. The review petitioner is the respondent in the writ appeal and the petitioner in W.P.No.10251 of 2020 filed for issuance of a writ of certiorarified mandamus to quash the order of the 1st respondent in letter dated 22.07.2020 and to direct the 1st respondent in the writ petition to include the petitioner's name in the regular panel for the year 2017-18 and consider the petitioner for promotion to the post of Assistant Director of Tourism w.e.f. 01.09.2017. The said writ petition was allowed by order dated 16.08.2021 holding that the petitioner had acquired the prescribed educational qualification.

3. It is admitted that a person to be eligible to get promotion to the post of Assistant Director of Tourism, is required to complete 10+2+3 (regular course). It is admitted that the petitioner with +1 qualification, entered in service. However, he had completed foundation course to consider him to have +2. Thereafter, he joined in an open university and completed his graduation through distance education mode. The main ground raised in the writ petition is



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that the petitioner had completed foundation course, after completing 10th standard. Though the petitioner completed graduation through open university, the learned Single Judge considered the same as equivalent to 10+2+3 for appointment and promotion. This order of the learned Single Judge was the subject matter of appeal.

4. This Court, after finding that the petitioner who was appointed as Junior Assistant on compassionate grounds, joined Madurai Kamaraj University and completed foundation course and obtained U.G. degree in B.Com. and P.G. Diploma in Tourism through distance education, is not eligible to hold the promotion post. Though the petitioner was eligible to hold that post of Tourist Officer, held that the petitioner cannot be considered for promotion, in the absence of qualification in the prescribed pattern of 10+2+3 education.

5. The learned Senior Counsel appearing for the petitioner submitted that aggrieved by the same, the petitioner has filed a review application. In the review application, it is contended that the prescribed degree qualification in the pattern of 10+2+3 for appointment to public service is not applicable to the petitioner as the qualification of degree was not applicable to the petitioner, when he was promoted to the post of Tourist Officer for the panel year



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2009-10. Further, the petitioner himself has admitted that *vide*

G.O.Ms.No.107, P&AR Department, dated 18.08.2009, qualification prescribed was in the pattern of 10+2+3 for the appointment/promotion in public services. In such circumstances, the petitioner who was appointed in the feeder category cannot be considered to the promotion post.

6. This Court, has time and again explained the scope of review. When there is an error apparent on the face of record, a review is permissible. This Court has consciously considered the requisite of 10+2+3 education pattern for promotional post. The judgment relied upon by the learned Senior Counsel appearing for the petitioner is not applicable to the case. The petitioner's qualification up to higher secondary is not a problem, as the foundation course completed by the petitioner may be taken as equivalent to +2. Since the petitioner did his graduation through distance education, he cannot be considered as eligible as he does not have the qualification prescribed for the promotion post.



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7. The next submission of the learned Senior Counsel is that the petitioner was permitted to undergo degree by distance mode. Therefore, the principle of promissory estoppel would come in his aid and relied upon the judgment in the case of *M/s.Motilal Padampat Sugar Mills Co. Ltd. Vs. The State of U.P. and Others (AIR 1979 Supreme Court 621)*.

8. It is true that where the Government makes a promise knowing or intending that it would be acted on by the promisee and in fact, the promisee acting in reliance on it alters his position, the Government would be held bound by the promise and the promise would be enforceable against the Government. Similar is not the position here. It was never the promise of the Government that on completing his graduation by distance education mode, the petitioner's eligibility could be considered for promotion. Merely permission was granted by the Government to undergo the course during employment, does not mean that the Government is estopped from questioning his qualification as per rules. This Court finds no merit in the review application and accordingly, the review application stands dismissed. No costs.

[S.S.S.R.,J.] [M.S.Q., J.]
18.11.2024

Index : Yes/No
Neutral Citation : Yes/No
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S.S.SUNDAR, J.
AND
MOHAMMED SHAFFIQ, J.

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To

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