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Writ Petition No.29918 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.29918 of 2024

&

W.M.P.No.32621 of 2024

N.Mohan Kumar
S/o.Ramaiah

... Petitioner

Vs.

1. The Principal Secretary,
Higher Education Department,
Fort St. George,
Chennai - 600 009.

2. The Registrar,
University of Madras,
Chennai - 600 005.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the Respondent University to promote the petitioner to the post of Section Officer by including him in the panel year 2023-2024 by taking into consideration the fact that the petitioner has undergone the 10+2+3 pattern of study and completed the same in April 2022 with all service and monetary benefits from the date when those included in the panel year 2023-2024 were promoted.

For Petitioner : Mrs.Dhakshayini Reddy, Senior Counsel



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Writ Petition No.29918 of 2024

for Ms.S.Suneetha

For Respondents : Mr.K.Surendran
Additional Government Pleader [R1]
Ms.A.Shabnam Banu
Standing Counsel [R2]

ORDER

This writ petition has been filed seeking issuance of writ of mandamus directing the second 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 as Class IV employee in the second respondent University in the year 1991. The petitioner was subsequently promoted to the post of Assistant in the year 2002 and further promoted as Assistant Section Officer in the year 2008. 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 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,



Writ Petition No.29918 of 2024

the petitioner studied +2 and completed in the year 2019. He thereafter completed B.A. (Economics) in May, 2022. 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, 2022 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. Heard learned Senior Counsel for the petitioner, learned Additional Government Pleader appearing for first respondent and learned Standing Counsel appearing for second respondent.

6. The short issue that arises for consideration in the present writ petition is as to whether this Court has to issue directions to the



second respondent University to consider the candidature of the petitioner for promotion to the post of Section Officer.

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

8. 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 10+2+3 pattern, i.e., passed 10th standard, 12th standard and then Degree, the claim



WEB COPY



Writ Petition No.29918 of 2024

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.”

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

10. 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

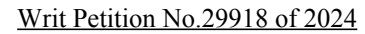


relevance in the case in hand.

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11. The petitioner joined as Class IV employee in the year 1991. 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 1991, he had completed his 10th standard and without completing +2, the petitioner had completed Under Graduation from the University of Madras in the year 1998. Thereafter, the petitioner was promoted to the post of Assistant Section Officer in the year 2008. This promotion is based on the seniority.

12. 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 1998 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



13. The petitioner having realized the same, got the permission from the University of Madras and completed +2 during the year 2019. Subsequently, he completed B.A. (Economics) in May, 2022.

14. The second 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 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 of acquiring 10+2+3 pattern i.e. from May, 2022.

15. 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



Writ Petition No.29918 of 2024

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

16. In view of the above, the promotion of the petitioner to the post of Assistant Section Officer in the year 2012 cannot be disturbed and it cannot be attempted to be regularized from May, 2022 on the ground that the petitioner had acquired 10+2+3 pattern only during May, 2022. The promotion of the petitioner as Assistant Section Officer in the year 2008 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.

17. In the light of above discussion, after May 2022, 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



Writ Petition No.29918 of 2024

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

18. In the result, there shall be a direction to the second 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.

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

14.10.2024

Neutral Citation: Yes/No
Index: yes/no
Speaking Order/Non-Speaking Order
gm

N.ANAND VENKATESH, J

gm

To



Writ Petition No.29918 of 2024

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2. The Registrar,
University of Madras,
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Writ Petition No.29918 of 2024

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