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W.P.No.34072 of 20...

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2024

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THE HON'BLE MR. JUSTICE **BATTU DEVANAND**

W.P.No.34072 of 2017
and WMP.Nos.37810 and 37811 of 2017

M.Manthirammoorthi

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to the Government,
Department of Higher Education,
Fort St. George,
Secretariat,
Chennai 600 009.
2. The Director,
The Directorate of Collegiate Education,
College Road,
Chennai 600 006.
3. The Secretary,
Tamil Nadu Public Service Commission,
Chennai.
4. The Secretary,
University Grants Commission,
Bahadursha Zafar Marg,
New Delhi 110 002.



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5. The Chairman,
Teacher's Recruitment Board,
Chennai.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to Notification No.27/2017, dated 21.11.2017 issued by the third respondent and quash the same insofar as the Clause 6 Qualifications (A) Age Limit -in Serial No.2 and (B) Educational Qualification for the Post of College Librarian in Government Arts and Science Colleges concerned and consequently direct the third respondent to issue fresh notification in accordance with law.

For Petitioner : M/s.R.Bharath Kumar

For Respondents :

for RR1 & 2 : Mr.R.Neelakandan,
asst. by C.Jaya Prabash, G.A.

for R3 : Mr.J.Ravindran, AAG
asst. by Mr.GBharanidharan

for R5 : Mr.M.Alagu Goutham

ORDER

This Writ Petition has been filed to quash the notification No.27/2017, dated 21.11.2017 issued by the third respondent and insofar as Clause 6 Qualifications (A) Age Limit- in Serial No.2 and (B) Educational



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Qualification for the post of College Librarian in Government Arts and Science Colleges and for a consequential direction to the third respondent to issue fresh notification in accordance with law.

2. The learned counsel for the petitioner contends that fixing of a maximum age limit for other category of candidates and no age limit for various communal categories of candidates is in violation of right to equality under Article 14 of the Constitution of India.

3. The learned counsel for the petitioner further contends that the explanation for the term “a consistently good academic record” has not been announced in the notification. He further contends that the maximum age limit of 57 years has been fixed for the post of Assistant Professor in Government Arts and Science Colleges, through Teachers Recruitment Board. The University Grants Commission (Minimum Qualifications for Appointment of Teachers and other Academic Staff in the Universities and Colleges) Regulations 2016, states as follows:

“A relaxation of 5% may be provided at the graduate and Masters Level for the Scheduled Caste/Scheduled



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Tribes/Differently-abled (physically and visually differently abled)/Other Backward Classes (OBC) (Non-creamy layer) categories for the post of eligibility and for assessing good academic records during direct recruitment to teaching positions. The eligibility marks of 55% marks (or an equivalent grade in a point scale wherever grading system followed) and the relaxation of 5% to the categories mentioned above are permissible, based on only the qualifying marks without including any grace mark.”

4. The learned counsel for the petitioner would submit that the impugned notification fixing educational qualification with the term “a consistently good academic record” without furnishing any explanation gives undue advantage unfettered to the third respondent for discharging constitutional duties.

5. On the other hand, Mr.J.Ravindran, learned Additional Advocate General appearing for the third respondent submits that in the notification, the Government has requested the Tamil Nadu Public Service Commission to hold the recruitment process for the post of College Librarian vide D.O. Letter No.21478/F2/2017-2, dated 25.01.2018 and accordingly, the notification No.27/2017 dated 21.11.2017 was cancelled.



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6. He would further submit that the Tamil Nadu Public Service Commission has hosted its Annual Planner-Programme of Examinations for the year 2024 in its website on 20th December 2023, wherein it has been mentioned that the notification for the Combined Library Services Examination will be tentatively issued in the month of August 2024. He further submitted that in view of the fact that the Notification No.27/2017 dated 21.11.2017 issued by the third respondent has been cancelled already nothing survives in this Writ Petition for adjudication.

7. In the counter affidavit filed by the respondents, it is stated that the maximum age limit of 35 years was announced in the notification 27/2017, dated 21.11.2017 to the post of College Librarian as per the Special Rules applicable to the post as amended in G.O.Ms.No.104, Higher Education (F2) Department dated 18.01.2009. The upper age limit for various communal categories was announced in the notification as per the concessions granted under Section 20(8) of the Tamil Nadu Government Servants (Conditions of Service) Act 2016. The Educational Qualification



prescribed in the Special Rules as amended in G.O.Ms.No.384, Higher Education (F2) Department dated 30th November 2009. Accordingly, notice has been issued to the post of College Librarian.

8. It is also averred in the counter affidavit of the third respondent that the Tamil Nadu Public Service Commission issued notification to the post based on the Rules governing the appointment to the post as approved by the Government and based on the estimate of vacancies furnished by the Government. It is up to the Director of Collegiate Education and the Government to revise the Rules (if required/necessary) based on the UGC Regulations. Notification to the post of Librarian was issued based on the orders of the Government framing Rules as on the date of notification. In the notification, the Government of Tamil Nadu has been addressed for a clarification as to the applicability of relaxation provided for in the University Grants Commission Regulations with regard to good academic record and also as to the upper age limit. The Tamil Nadu Public Service Commission will follow the clarifications to be issued by the Government. For the present, the Government have requested the Tamil Nadu Public Service Commission to hold the recruitment process for the post of College



Librarian vide letter dated 25.01.2018.

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9. In the counter affidavit, it is further stated that the Higher Education Department of the State Government had issued amendment to Special Rules of Tamil Nadu Collegiate Educational Service regarding age and qualification vide G.O.Ms.No.213, Higher Education Department dated 05.09.2018. The clarification for the term “a consistently good academic record” and also relaxation of 5% of marks for reserved categories have been received vide letter dated 15.03.2019 and 28.05.2019 respectively.

10. It is also stated that the third respondent had requested the State Government vide letter dated 20th March 2021 to issue necessary amendments to the Special Rules for the Tamil Nadu Collegiate Educational Service in respect of the educational qualification. Further, the Higher Education Department of the State Government has been requested by letter dated 27.10.2022 to confirm whether the differently abled persons category mentioned in G.O.Ms.No.20, Welfare of Differently Abled Persons (DAP. 3.2) Department, dated 20th June 2018 for the post of Librarian in Tamil Nadu Educational Service may be adopted for the post of College Librarian.



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After repeated reminders, the Higher Education Department had informed vide letter dated 25.01.2023 that they have adopted University Grants Commission Regulations 2018, vide G.O.Ms.No.5, Higher Education (H1) Department, dated 11.01.2021 and also stated that the differently abled persons categories HH, HI, LD (with mobility), DF, AC, shall be considered as eligible for the post of Librarian and necessary amendment to G.O.Ms.No.20, Welfare of Differently Abled Persons (DAP. 3.2) Department, dated 20th June 2018 will be issued separately.

11. In the counter affidavit it is further averred that amendment to the Special Rules relating to the Educational Qualification for the post of College Librarian in Tamil Nadu Collegiate Educational Service and the copy of amendment to G.O. regarding suitability of differently abled persons for the said post have not been received from the Higher Education Department till date.

12. Having heard the submissions of the respective counsels and on careful perusal of the entire materials available on record, it appears that the third respondent has issued notification No.27/2017 dated 21.11.2017 to fill



the post of College Librarian in Government Arts and Science Colleges.

Challenging the age limit and the educational qualifications prescribed in the said notification, the petitioner filed this Writ Petition.

13. The first ground raised by the petitioner to challenge the notification is that he is against the fixation of upper age limit as 35 years for open category and the second ground is that the third respondent has failed to give any explanation to the term “a consistently good academic record” in the notification. As per the petitioner, it leads to give undue discretion to the third respondent to recruit the candidates of its choice at the time of awarding marks under the said head.

14. As per the counter affidavit filed by the third respondent, the State Government has issued G.O.Ms.No.213, Higher Education (F2) Department dated 05.09.2018, amending the age relaxation from 35 years to 57 years in Special Rules for Tamil Nadu Collegiate Educational Service in line with the University Grants Commission Regulations 2018.

15. The clarification for the term “a consistently good academic



record” and also relaxation for 5% marks for reserved categories have been sent to the third respondent by the Higher Education Department of the State Government vide letters dated 15.03.2019 and 28.05.2019.

16. Admittedly, the third respondent had requested the Higher Education Department of the State Government in their letter dated 20th March 2021 to issue necessary amendment to the Special Rules for the Tamil Nadu Collegiate Educational Service in respect of the educational qualification. Thereafter, the State Government did not issue amendments to the Special Rules with regard to the Educational Qualification.

17. It is the contention of the third respondent that if necessary, Government Orders for amendment to Special Rules relating to the post of College Librarian in the Tamil Nadu Collegiate Educational Service pertaining to Educational Qualifications and also amendment to G.O.Ms.No.20, Welfare of Differently Abled Persons (DAP. 3.2) Department, dated 20th June 2018 are issued, all vacancies furnished will be notified in the month of August 2024.

18. On careful examination of the facts of the case, basing on the



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affidavits filed by the third respondent, it is clear that the grievance raised by the petitioner in this Writ Petition has already been addressed with regard to the age limit and educational qualification. The third respondent also ready to issue notification in the month of August 2024 to fill the vacancies of the post of College Librarian in the Tamil Nadu Collegiate Educational Service. The reason for delay in notifying the vacancies from 2018 to till date is that in spite of several remainders from the third respondent, the first respondent is not acting upon to issue necessary amendments to the Special Rules for Tamil Nadu Collegiate Educational Service.

19. Under this circumstances, as already the first respondent has taken decision with regard to the age limit and educational qualifications, in my considered view further adjudication on this aspect is not required.

20. However, considering the fact that the notification issued on 21st November 2017, is withheld as per the letter of the first respondent dated 25.01.2018 and thereafter, due to the reason that the first respondent failed to make necessary amendments to the Special Rules regarding



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educational qualification also issue necessary amendment to Government Orders for suitability of differently abled persons, the third respondent could not issue fresh notification for the vacancies of the post of College Librarian.

21. Admittedly, there is no recruitment for the post of College Librarians in the Tamil Nadu Collegiate Educational Service from the year 2017 to till date. Keeping in view the interest of the unemployed educated candidates, this Court intends to issue certain directions to the first respondent and the third respondent to meet the interest of justice.

22. For the above said reasons, this Writ Petition is disposed of with the following directions:

i) The first respondent shall issue necessary amendments to the Special Rules for Tamil Nadu Collegiate Educational Services with regard to the educational qualification and also to issue necessary amendment to the Government Orders for suitability of the Differently Abled Persons on or before 30th June 2024 and communicate the same to the third respondent immediately.



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ii) On receipt of the amended Special Rules, the third respondent shall issue notification to fill the vacancies of the post of College Librarian in Tamil Nadu Collegiate Educational Service in the month of August 2024.

No costs.

Consequently, connected miscellaneous petitions are closed.

28.03.2024

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

pvs

To

1. The Secretary to the Government,
The State of Tamil Nadu,
Department of Higher Education,
Fort St. George, Secretariat,
Chennai 600 009.
2. The Director,
The Directorate of Collegiate Education,
College Road,
Chennai 600 006.
3. The Secretary,
Tamil Nadu Public Service Commission,
Chennai.
4. The Secretary,
University Grants Commission,
Bahadursha Zafar Marg,
New Delhi 110 002.
5. The Chairman,

13/15



Teacher's Recruitment Board, Chennai.

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