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W.P.No.18231 of 2017



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.08.2024

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THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.18231 of 2017
and
WMP.No.19818 of 2017

S.Jayaram

... Petitioner

vs.

- 1.The Director of Collegiate Education,
Government of Tamil Nadu,
9th Floor, E.V.K.Sampath Building,
College Road,
Chennai -600 006.
- 2.The Joint Director of Collegiate Education,
Government of Tamil Nadu,
Tirunelveli.
- 3.The Secretary,
Vivekananda College,
Agasteeswaram - 629 701.
Kanyakumari District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in R.C.No.53035/F2/2015, dated 29.07.2016 on the file of the first respondent herein and to quash the same and direct the respondents to regularise the services of the petitioner to the promotion post of Laboratory Assistant in the third respondent College



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with effect from 20.07.2002 with all the monetary benefits and other related service conditions attached to the post, within the time frame as may be fixed by this Court.

For Petitioner : Mr.S.Subbiah
Senior Counsel for
M/s.Elizabeth Ravi

For Respondents : Mr.C.Jayaprakash
Government Advocate

ORDER

The writ petition is filed challenging the order passed by the first respondent, dated 29.07.2016 and consequently, direct the respondents to regularise the promotion as Laboratory Assistant in the third respondent college with effect from 27.02.2002 with all monetary benefits and other related service conditions attached to the post.

2. The petitioner was selected and appointed as sweeper in the third respondent college and subsequently, promoted as Laboratory Assistant with effect from 20.07.2002. Thereafter, the third respondent on 02.07.2003, demoted and reverted the petitioner to the post of record clerk on the ground that he did not possess requisite educational qualification. The petitioner passed SSLC examination privately through Madurai Kamaraj Open University in the month of April 2003 and on that



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basis, the third respondent promoted the petitioner to the post of Laboratory Assistant with effect from 03.01.2007. According to the petitioner, as per Special Rules for the Collegiate Education Department, the minimum educational qualification required for the post of Laboratory Assistant was completion of SSLC from recognised School. The petitioner's further case was that even in the guidelines issued by the second respondent in RC.No.10383/E3/86, dated 02.03.1997 the minimum qualification for the post of Laboratory Assistant was only completion of SSLC from recognised School, but not a pass. Even, the first respondent by his proceeding in R.C.No.5814/B2/2009, dated 25.02.2009 clarified that the amendment to the educational qualification of the Laboratory Assistant on the basis of G.O.No.728 Finance (CMPC1) Department, dated 29.08.1994 were pending approval of the Government. Under the circumstances, though the petitioner submitted several representations to the third respondent, he did not receive any favourable action. The petitioner therefore filed an appeal to the first respondent, on 19.10.2013, but the first respondent did not entertain the appeal. The petitioner filed writ petition before Madurai Bench of this Court in W.P(MD)No.1136 of 2014 for writ of Mandamus directing the respondents 1 and 2 to approve his promotion to the post of Laboratory Assistant made by the third respondent on 27.02.2002, by cancelling the



order, dated 02.07.2003. The said writ petition was disposed of by this Court vide order dated 23.01.2014, directing the third respondent to consider the petitioner's appeal, dated 19.10.2013, on merits and in accordance with law within a period of three months from the date of receipt of a copy of the order. After several reminders, the third respondent passed an order on 15.06.2015, rejecting the petitioner's request. The petitioner therefore preferred an appeal to the first respondent on 13.07.2015, but the appeal was kept pending. The petitioner therefore filed a writ petition in W.P.No.36451 of 2015 before this Court for writ of Mandamus directing the first respondent to dispose of the said appeal as expeditiously as possible. This Court vide order, dated 16.11.2015, directed the first respondent to dispose of the appeal on merits and in accordance with law. Thereafter, the first respondent vide impugned order, dated 29.07.2016 dismissed the petitioner's appeal confirming the order passed by the third respondent. Aggrieved by the impugned order, dated 29.07.2016, the petitioner filed the above writ petition for the aforesaid relief.

3. The respondents filed a detailed counter supporting the impugned order.



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4. The learned counsel for the petitioner submitted that the impugned order was illegal and un-sustainable in view of the fact that the respondents failed to note that the basic educational qualification for promotion to the post of Laboratory Assistant was completion of SSLC and not a pass in SSLC and the same was clarified by the proceeding of the first respondent, dated 25.05.2009 in R.C.No.5814/B2/2009. He further submitted that on the date, the petitioner was promoted as Laboratory Assistant (i.e) on 20.07.2002, the petitioner had passed SSLC examination conducted by the Madurai Kamaraj University through open university system and so the petitioner was fully qualified to the post of Laboratory Assistant. The learned counsel for the petitioner therefore submitted that the impugned order cannot be sustained.

5. The learned Government Advocate for the respondents submitted that the basic educational qualification for the post of Laboratory Assistant was completion of SSLC and as the petitioner failed in the SSLC examination, the petitioner's promotion was rightly cancelled. He further submitted that as per the letter of the Government, dated 23.07.2010, it was clarified that the pre-foundation and foundation course under the open university system was not considered equivalent to pass in SSLC. He therefore submitted that there was no merit in the writ



petition and the same deserved to be dismissed.

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6. Heard both learned counsels and perused the available materials on record.

7. The petitioner claims that the basic educational qualification for the post of Laboratory Assistant was only completion of SSLC as per the proceeding of the first respondent, dated 25.05.2009. According to the petitioner, completion of SSLC did not mean a pass in SSLC. The petitioner completed the pre-foundation and foundation course in Madurai Kamaraj University through Open University System and so the petitioner was fully qualified for the post of Laboratory Assistant. The petitioner relied on G.O.No.728 Finance (CMPC1) Department, dated 29.08.1994 to buttress his contentions.

8. The respondents on the other hand submitted that the interpretation placed by the petitioner on the term completion of SSLC is misconceived as completion does not mean mere attempt but would mean pass in SSLC. As regards the other contention of the petitioner relating to qualification of pre-foundation and foundation course from Madurai



Kamaraj University under the Open University System, the respondents contended that in the letter, dated 27.03.2010, the Government clarified that pre-foundation and foundation course under the open university system was not equivalent to SSLC.

9. The interpretation placed on the term completion as including “fail”, in my view is misconceived. Merely because, the word pass is not used, it does not mean that completion will include fail also. The Oxford dictionary meaning of word “complete” means an act or process of finishing, the state of being finished. It would indicate that basic process or activity has been fully carried out. Even in Ramanathan Aiyar's Law Lexicon, “complete” means “to finish, accomplish that which one starts out to do”. From the above meaning of complete given in the Oxford dictionary and Law Lexicon, it is clear that the word complete means to bring something to final state. Therefore, in my considered view, fail in SSLC or attempt in SSLC cannot be construed as completion of SSLC because unless a person passes SSLC, he/she cannot be said to have completed/finished SSLC. It is pertinent to note that if even failed employees were to be considered then the recruitment rule would have specifically stated so. Therefore the clarification of the first respondent is of no avail.



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10. The other contention of the petitioner that as he completed pre-foundation and foundation course under the Open University System he was eligible is concerned, it is seen that the Government clarified in its letter, dated 27.03.2010 that the pre-foundation and foundation course was not equivalent to SSLC. Therefore, the said contention of the petitioner cannot also be countenanced.

11. In view of the aforesaid discussion, I find absolutely no infirmity or illegality in the impugned order. Therefore, the writ petition stands dismissed as meritless. No costs. Consequently, the connected miscellaneous petition is closed.

27.08.2024

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N.MALA, J.

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