



WP(MD)Nos.8533 and 8613 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.02.2024

CORAM

THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P(MD)Nos.8533 and 8613 of 2021
and W.M.P.(MD)Nos.6414, 6416 & 6483 of 2021

A.Raman

... Petitioner in
W.P.(MD)No.8533/2021

M.Vellaikannu

... Petitioner in
W.P.(MD)No.8613/2021

Vs.

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

2.The Registrar,
Madurai Kamaraj University,
Palkalai Nagar, Madurai - 625 021.

... Respondents

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order issued by the 2nd respondent vide proceedings Ref. Estt-1 SC Commission/2020/5502, Ref. Estt-1 SC Commission/2020/4820 dated 24.11.2020 and quash the same as illegal,



WP(MD)Nos.8533 and 8613 of 2021

improper, unconstitutional and arbitrary and consequently direct the Respondents to issue retrospective promotion order with effect from 2012 and 1997 respectively with all consequential benefits.

For Petitioners : Mr.M.Jerin Mathew for
(In both W.Ps) M/s.Shaazim Shagar

For Respondents : Mr.V.Om.Prakash,
(In both W.Ps) Govt. Advocate for R1
Mr.T.Cibi Chakaravarthy for R2

COMMON ORDER

The petitioners in these two writ petitions, who were originally appointed as S/W/G (Sweeper, Watchman and Gardener) in the years 2005 and 1985 respectively and were promoted to the post of Clerk on 28.12.2010 and 18.12.2017 respectively and while promoting them to the post of Clerk, they were required to acquire the qualification of pass in typewriting lower grade in English and Tamil and also to pass Account Test-Part I, within a period of two years. The petitioners have admittedly not acquired the said qualifications. However, the petitioners were continued in the post of Clerk, their probation were declared and they were also granted increments. At that stage, the petitioners claimed the benefit of exemption



from passing of the required test as provided under G.O.Ms.No.120, Personnel and Administrative Reforms (Training 1) Department, dated 05.12.2016 issued by the Government of Tamil Nadu and approached the respondents University seeking to extend the benefit under the said Government Order to the petitioners also. The said request of the petitioners was considered by the second respondent University and passed the impugned orders dated 24.11.2020 rejecting the claim of the petitioners on the ground that the Government Order has no application to the respondent University. Aggrieved by the said orders, the petitioners approached this Court by filing the present Writ Petitions.

2. When the matters are taken up for consideration today considering the fact that the petitioners are in the verge of their retirement, the learned counsel for the petitioners fairly conceded that the Government Order issued by the Government in G.O.Ms.No.120, Personnel and Administrative Reforms (Training 1) Department, dated 05.12.2016 has no application to the second respondent University and in view of the same, the petitioners are willing to go before the Syndicate of the second respondent University seeking exemption from acquiring the qualifications in question by



submitting a representation and invoking the power of Syndicate under Section 20 of Madurai Kamaraj University Act, 1965 and clause 3 and 3(a) of the Ordinance that deal with the conditions of service of the employees of the second respondent University and seeks indulgence of this Court to direct the Syndicate of the second respondent University to consider the request of the petitioners within a time frame.

3. The learned counsel appearing for the second respondent University strenuously contended that the claim of the petitioners was already rejected by the respondents by passing the impugned orders and therefore, the question of granting relaxation or exemption from acquiring the requisite qualifications by the Syndicate does not arise. Further, he also contended that petitioners are not entitled to seek exemption from acquiring the requisite qualification as they themselves have accepted the conditions imposed while promoting them as Clerk and therefore, they are not entitled to question the said conditions and seek exemption from the said conditions at this length of time. He also further contended that Section 20 of the Madurai Kamaraj University Act, 1965 also does not specifically speak about the power of exemption



4. As the counsel for the petitioners fairly conceded the matter and offered to go before the Syndicate, this Court is not inclined to examine the matter on merits as to whether the Syndicate has got power or not to relax any conditions. Admittedly, there are no rules prescribing the requisite qualification for the post of Clerk and it is only while appointing on promotion or otherwise the conditions or qualifications are being imposed by the respondent University, this Court is of the view that the Syndicate has got all the powers under Section 20 of the Madurai Kamaraj University Act, 1965 and it is for the Syndicate to consider the request of the petitioners.

5. As the request of the petitioners is only for consideration of their claim for exemption from acquiring the qualifications that were required to be acquired by them while promoting for the post of Clerk, the Syndicate of the second respondent University is conferred with such power of exemption and also taking into consideration of the fact that the contention of the learned counsel for the petitioners that subsequent to the promotion of the petitioners as Clerk there are several juniors were promoted to the post of Clerk without imposing any such condition of acquiring such additional qualification, this Court deems it fit to dispose of these Writ Petitions by



WP(MD)Nos.8533 and 8613 of 2021

permitting the petitioners to make a representation before the Syndicate of the second respondent University for exemption.

6. Accordingly, while upholding the impugned orders, the Writ Petitions are disposed of permitting the petitioners to make a representation before the second respondent University seeking exemption from the qualification viz., Typewriting Lower Grade in Tamil and English and Account Test part-I with in a period of three weeks from the date of receipt of a copy of this order and in case if such representation is submitted within the time stipulated above, the same shall be considered by the Syndicate/competent authority of the second respondent University in accordance with law and pass appropriate orders thereon within a further period of eight weeks and communicate the same to the petitioners. No costs. Consequently, connected miscellaneous petitions are closed.

22.02.2024

NCC : Yes/No
Index : Yes/No

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6/8



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WP(MD)Nos.8533 and 8613 of 2021

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