



W.P.(MD)No.15760 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.07.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.15760 of 2024

and

WMP(MD)No.13728 of 2024

R.Ganapathy

.. Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Fort St.George, Secretariat,
Chennai- 600 009.

2.The Director of School Education,
DPI Campus, Colllege Road,
Chennai- 600 006.

3.The Director,
State Council of Educational Research and Training (SCERT),
DPI Campus, College Road,
Chennai- 600 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to promote the petitioner as Senior Lecturer as per Seniority



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by considering the M.P.Ed., degree as the relevant qualification for the post of Senior Lecturer from the date on which his junior was given promotion with all consequential.

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.V.Panneer Selvam, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents.

2. The petitioner has filed this writ petition for issuance of a direction to the respondents to promote the petitioner as Senior Lecturer as per Seniority by considering the M.P.Ed., Degree as the relevant qualification for the post of Senior Lecturer from the date on which his junior was given promotion with all consequential benefits.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



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4. The petitioner is qualified with B.B.A., M.P.Ed., M.Com and M.Phil., in Physical Education. He was appointed as Lecturer in the Department of Physical Education in District Institute of Education and Training (hereinafter called as 'DIET') on 18.01.2007. His services were regularised and he successfully completed his probationary period. The Government framed Adhoc Rules for Tamilnadu Teacher Educational Service notified in G.O(Ms).No.133 School Education Department dated 14.06.2007. As per the Service Rules, apart from Master Degree, a candidate must possess M.Ed. for Lecturers in languages or subjects and M.P.Ed for Lecturers in Physical Education with not less than 55 marks for recruitment to the post of Lecturer in DIET. As far as the post of Senior Lecturer is concerned, it is to be filled up by direct recruitment or by promotion and recruitment by transfer. The qualification is Master Degree and M.Ed., with not less than 55 marks for promotion to the post of Senior Lecturer. The petitioner was appointed as Lecturer in Physical Education based on the qualification of Master Degree and M.P.Ed Degree. Any lecturer in language and subjects will be eligible for promotion to the post of Senior Lecturer based on seniority and the qualification in Master Degree and M.Ed Degree. Though the petitioner



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is qualified with M.P.Ed., on par with M.Ed., Degree for other subjects and eligible for promotion to the post of Senior Lecturer, he was not considered for promotion to the post of Senior Lecturer for the reason that he does not have a M.Ed., Degree. Though the petitioner's name was placed at Sl.No.37 in the tentative seniority list published as on 01.01.2022, he was not considered for promotion to the post of Senior Lecturer and another seniority list was published on 03.07.2024, in which, the petitioner's name was not placed. Hence, the petitioner has given a representation on 03.07.2024 to consider him to the post of Senior Lecturer. Since the said representation was not considered so far, he has filed this writ petition.

5. The issue is no longer *res integra*. This Court has already dealt with a similar issue in ***W.P.No.16686 of 2023 dated 14.03.2024 (R.Premalatha Vs. The Government of Tamil Nadu, rep. by its Principal Secretary, School Education Department, Fort St.George, Chennai and others)***. Similarly placed person has already approached this Court through the above petition and got favourable order in her favour, wherein, it is held as follows :



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“7. When the petitioner was appointed as Lecturer in the Physical Education Department, she need not study M.Ed to acquire Senior Lecturer. When for the post of Lecturer, the candidate should possess Master degree and M.Ed degree and to the post of Senior Lecturer, Master degree, M.Ed degree and teaching experience are required, the petitioner is also entitled to be promoted to the post of Senior Lecturer since she also possessed M.P.Ed. equivalent to M.Ed. and it is the constitutional obligation guaranteed under Articles 14 and 16 of Constitution of India to create promotional avenue for a Government servant by making necessary amendment in the promotion policy which appears to be a condition of service. The petitioner cannot be discriminated when all other her batch mates of the year 2000 appointed as Lecturer in language / subjects were granted promotion to the post of Senior Lecturer and Principal.

*8. The learned Senior Counsel appearing for the petitioner relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Dr.Ms.O.Z.Hussain Vs. Union of India reported in 1990 (Supp) Supreme Court Cases 688**, wherein it is held as follows:*

This Court, has on more than one occasion, pointed out that provision for promotion increases efficiency of the public service while stagnation reduces efficiency and makes the service ineffective. Promotion is thus a normal incidence of service. There too is no justification why while similarly placed officers in other Ministries would have the benefit of promotion, the nonmedical 'A' Group



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scientists in the establishment of Director General of Health Services would be deprived of such advantage. In a welfare State, it is necessary that there should be an efficient public service and, therefore, it should have been the obligation of the Ministry of Health to attend to the representations of the Council and its members and provide promotional avenue for this category of officers. It is, therefore, necessary that on the model of rules framed by the Ministry of Science and Technology with such alterations as may be necessary, appropriate rules should be framed within four months from now providing promotional avenue for the 'A' category scientists in the non-medical wing of the Directorate.

Thus it is clear that the provision for promotion increases efficiency of the public service while stagnation reduces efficiency and makes the service ineffective. Promotion is thus a normal incidence of service.

*9. In the case of **State of Tripura and others Vs. K.K.Roy reported in (2004) 9 SCC 65**, the Hon'ble Supreme Court of India held that it is not a case where there existed an avenue for promotion. It is also not a case where the State intended to make amendments in the promotional policy. Respondents being a State within the meaning of Article 12 of Constitution of India should have created promotional avenues for the respondent having regard to its constitutional obligations adumbrated in Articles 14 and 16 of Constitution of India. That apart, the Government framed Adhoc Rules in GO.Ms.No.133*



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School Education Department dated 14.06.2007. Subsequently, no rules have been framed by any modification.

10. In view of the above, the impugned letter dated 29.12.2022 of the first respondent is quashed and this writ petition is allowed. The respondents are directed to make necessary amendments in the promotion policy as observed above to create promotional avenue for the persons who have been appointed in the post of Lecturer in Physical Education Department with the qualification of Master degree and M.P.Ed degree within a period of eight weeks from the date of receipt of copy of this order and promote the petitioner to the post of Senior Lecturer from the year 2012 on par with her batchmates appointed as Lecturer in language or subjects by considering the M.P.Ed degree as the relevant qualification for the post of Senior Lecturer with all consequential and other attendant benefits within a period of four weeks thereafter. There shall be no order as to costs."

6. Since the above judgment is squarely applicable to the case of the petitioner, in the line of the earlier order, the Writ Petition is **disposed of** and the respondents are directed to consider the representation of the petitioner dated 03.07.2024 and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order and it is appreciable, if the above said exercise is done before passing any order of promotion to the post of Senior Lecturers, by



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considering the persons in the promotion panel dated 03.07.2024. No Costs. Consequently, connected miscellaneous petition is closed.

12.07.2024

Index : Yes / No
NCC : Yes / No
PJL

To

1. The Principal Secretary to Government,
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R.N.MANJULA, J.

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