



WEB COPY



WA No. 3583 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07-01-2025**

CORAM

THE HONOURABLE MR JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE MR JUSTICE C. SARAVANAN

WA No.3583 of 2024 and CMP No. 27840 OF 2024

1. State Of Tamilnadu
Rep. by its Principal Secretary To Government, School
Education Department, Fort St.George, Secretariat,
Chennai- 600 009.
2. The Commissioner
Directorate of School Education, DPI Campus, College
Road, Chennai-06
- 3.The Director
State Council of Educational Research and Training
(SCERT) CPI Campus College Road, Chennai-06.

... Appellants

Vs

R Premalatha
W/o.V.Suresh, Lecturer in Physical Education, District
Institute of Education and Training (DIET), 5, Makarajar
Salai, Triplicane, Chennai-05.

Respondent

Prayer : Writ Appeal under Clause 15 of the Letters Patent to set aside the order dated 14-03-2024 made in WP.No.16686/2023.

For Appellants	:	Mr.U.M.Ravichandran Special Government Pleader
For Respondent	:	Mr.G.Sankaran, Senior Counsel for M/s. S.Nedunchezhiyan



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JUDGMENT

(Judgment of the Court was delivered by R.Suresh Kumar J.)

This intra court appeal has been directed against the order passed by the writ Court dated 14-03-2024 made in WP.No.16686 of 2023.

2. The respondent was the writ petitioner, who possessed the educational qualifications of B.Sc., B.Ed., M.A.(Sociology), M.A.(History), M.P.Ed., and M.Phil in Physical Education. She was appointed as Lecturer in the Department of Physical Education in District Institute of Education and Training (In short 'DIET') on 03.10.2000. She had successfully completed her probationary period and her services were regularized. According to her, after several years of service, she became eligible to get promotion as Senior Lecturer in Physical Education. Therefore, she sought for such promotion. As the same was denied by the order dated 29.12.2022 on the ground that as per the Rule which is in vogue, the writ petitioner/respondent did not have the necessary qualification especially M.Ed degree which is one of the qualification to hold the post of Senior Lecturer.

3. Challenging the said rejection order, the respondent/writ petitioner preferred the aforesaid writ petition. The learned Writ Court, having considered the Rule which is in vogue, allowed the writ petition, against which the State has preferred the present writ appeal.



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4. We have heard Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the appellants, who would invite the attention of this Court as to the Rule which is in vogue, under which the post of Lecturer as well as Senior Lecturer to be appointed at the DIET had been dealt with. The necessary Rule in fact has been extracted by the learned Judge in the impugned order at Para 2.

5. As per the Rule, the qualification prescribed for the post of Lecturer is Masters Degree with not less than 50% marks in languages, Maths Physics, Chemistry etc., and M.Ed degree for the Lecturers in Languages or subjects and M.P.Ed for Lecturers in Physical Education with not less than 55% marks.

6. learned Senior Counsel for the respondent/writ petitioner would contend that, since the writ petitioner has been qualified with all these qualifications prescribed to hold the post of Lecturer in Physical Education, she was appointed as such in the year 2000. He would also submit that subsequently she earned the necessary experience to hold the post of Senior Lecturer by way of promotion.

7. In this context, if we look at the Rule which prescribes recruitment method for the post of Senior Lecturer, it says that there are two methods ; one by direct recruitment and the other by recruitment by transfer. Here it is a case of promotion. The relevant rule to hold the post of Senior Lecturer by way of promotion and



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recruitment by transfer is holding Master degree with not less than 50% marks and M.Ed degree with not less than 55% marks and teaching experience for a period of not less than five years as Principal in the Government Teacher Training Institute or as Lecturer in the Directorate of Teacher Education Research and Training or District Institutes of Education and Training.

8. Insofar as the candidature of the respondent/writ petitioner is concerned, admittedly she is holding Masters degree and also is having five years teaching experience, thereby fulfilling the two essential qualifications out of the three. Insofar as the third essential qualification to hold M.Ed degree with not less than 55% marks is concerned, admittedly the respondent/writ petitioner does not have such a qualification as she has completed in the M.Ed degree. Therefore, since she does not have one of the essential qualification to hold the post of Senior Lecturer as per the Rule in vogue, she was not entitled to get promotion as per G.O.Ms.No.133, School Education (U2) Department dated 14.06.2007, hence absolutely there has been no scope for the respondent/writ petitioner to seek for promotion to the post of Senior Lecturer in Physical Education.

9. In this context, even though the learned Senior Counsel for the respondent would contend that, it is an omission to include the M.P.Ed degree also as the qualification insofar as the post of Senior Lecturer in Physical Education, as there is no scope for any person who is working as Lecturer in Physical Education with a



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qualification of Masters Degree and M.P.Ed degree, to hold the further qualification of M.Ed degree, as such M.Ed degree qualification cannot be acquired by a M.P.Ed candidate, who already got the post of Lecturer in Physical Education. Hence, such an omission cannot be put against the writ petitioner and her avenue for promotion cannot be thwarted.

10. The said submission of the learned Senior Counsel appearing for the respondent / writ petitioner appears to be having some force. But, based on the Rule which is in vogue, as we stated supra, such a proposition cannot be accepted by this Court, the reason being that, there are two methods for appointment to the post of Senior Lecturer in Physical Education. The first method is direct recruitment. Even for direct recruitment, the qualification prescribed under the Rule is that, the candidate must hold Masters degree with not less than 50% marks and M.Ed degree with not less than 55% marks.

11. Therefore, the Rule making authority very consciously included this qualification of Masters and M.Ed degree to hold the post of Senior Lecturer. Almost the same qualification has been prescribed for those who seek promotion to the post of Senior Lecturer in Physical Education ie., Masters degree with not less than 50% marks, M.Ed degree with not less than 55% marks and in addition, teaching experience of five years because it is a promotional avenue. Therefore, it cannot be stated that it is only an omission on the part of the Rule making authority in not



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including the qualification of M.P.Ed degree as essential qualification to hold the post of Senior Lecturer in Physical Education even by way of promotion cannot hold any water. Therefore, such an argument made by the learned counsel for the respondent/writ petitioner is to be rejected.

12. However, these aspects have not been considered by the writ Court in proper perspective and thereby, by the erroneous decision the writ Court has allowed the said writ petition directing the appellants to give promotion to the respondent/writ petitioner. It is further to be noted that the respondent/writ petitioner also, in the meanwhile, superannuated on 31.05.2024. Therefore, if at all this issue has to be agitated, it is only academic issue insofar as the writ petitioner is concerned, as she may not get any benefit like notional promotion at this juncture because of the Rule position.

13. However, in Para 10 of the impugned order, the learned Judge has given some direction to make amendment to the Rule. Insofar as such amendment is concerned, it is for the Rule making authority to make such an amendment in the qualification and experience to hold the post of Senior Lecturer in Physical Education.

14. As we have discussed herein above, insofar as the direct recruitment is concerned, the qualification prescribed is only Masters degree with not less than 50% marks and M.Ed degree with not less than 55% marks and there is no



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experience prescribed, whereas insofar as the promotion and recruitment by transfer is concerned, apart from Masters degree and M.Ed degree, there is a requirement of experience of five years that has been attached only to those who seek for promotion. In this context, comparing of the qualification prescribed in both direct recruitment and promotion category, there is a discrimination, as the person by way of direct recruitment can hold the post of Senior Lecturer in Physical Education without having the experience of five years, whereas the person who seeks promotion to the post of Senior Lecturer in Physical Education, even though having the same qualification of Masters degree with not less than 50% marks and M.Ed degree with not less than 55% marks, must also hold experience of five years. Therefore, in order to remove the discrimination, the direction given for amendment of the Rule in Para 10 is to be approved.

15. In that view of the matter, we do find good reasons to interfere with the order passed by the learned Judge as well as the conclusion reached by him for allowing the writ petition. Therefore, the following orders are passed in this writ appeal.

- That the order of the writ Court dated 14.03.2024 made in W.P.No.16686 of 2023 is set aside.
- However, the direction given by the learned Judge in Para 10 of the order shall be sustained.



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- We also reiterate that the Government shall re-visit the Rule and if they desire to do so, make amendment to the Rule prescribing equal qualification for both direct recruitment as well as the promotees to hold the post of Senior Lecturer in Physical Education.
- It is open to the respondent / writ petitioner to challenge the present Rule, if she is advised to do so.
- It is brought to our notice that the respondent/writ petitioner even though has attained superannuation and retired from service as on 31.05.2024, has not been given retiral benefits fully as of now and therefore, a direction is hereby given to the appellants to immediately sanction the retiral benefits and pay the monetary benefits due to the respondent/writ petitioner on attaining her superannuation, within a period of eight weeks from the date of receipt of a copy of this order.

16. With the above directions, this writ appeal is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

(R.SURESH KUMAR J.) (C.SARAVANAN J.)
07-01-2025

Index : Yes/No
NCS : Yes/No
KST



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