



W.P.(MD).No.18261 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on :	31.01.2025
Pronounced on :	14.02.2025

CORAM

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.P.(MD).No.18261 of 2017

S.Govindaraj
Assistant Section Officer,
Controller of Examination,
Bharathidasan University,
Palkalaiperur, Tiruchirappalli 620 024.

... Petitioner

Vs.

1.The Principal Secretary to Government,
Higher Education Department,
Fort St.George, Secretariat,
Chennai.
(Convenor of Syndicate Sub Committee for
Performance the duty of the Vice Chancellor,
Bharathidasan University, Trichy).

2.The Bharthidasan University,
Rep. by its Registrar,
Palkalaiperur,
Tiruchirappalli 620 024.

... Respondents

Prayer: To issue a Writ of Certiorari or order or direction or any other appropriate writ, calling for the records relating to the impugned proceedings dated 23.08.2017 in Na.Ka.No.B1/027968/2009 issued by the second



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respondent and to quash the same and consequential direct the second respondent to re-fix the scale and grant all monetary benefits to the petitioner in the post of Assistant Section Officer from the date of promotion i.e.17.05.2013.

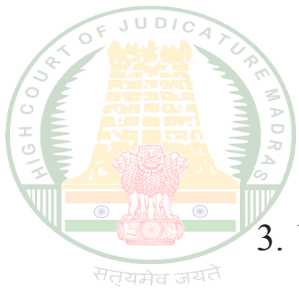
For petitioner : Mr.J.Anand Kumar for
Mr.S.Manikandan

For Respondents : Mr.S.R.A.Ramachandran,
Additional Government Pleader for R1.
Mr.V.R.Shanmuganathan,
Standing Counsel for R2.

JUDGMENT

Heard.

2. The writ petitioner, who was employed as an Assistant Section Officer at the second Respondent University, has filed this writ petition challenging the order issued by the second Respondent dated 23.08.2017 regarding his pay fixation done by the second Respondent. His request, submitted through a representation dated 27.07.2017 along with an option form, was considered by the Respondent.



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3. When the matter was heard on 03.10.2017, notice was taken by both Respondents. On behalf of the second Respondent, a counter affidavit dated Nil (September 2024) was filed. According to the records, the Petitioner initially joined as a temporary basic servant in 1987 and had his service regularized on 04.11.1991. He was subsequently promoted to Record Clerk on 03.05.1996, and later granted a temporary promotion to the post of Assistant on 09.12.2002. However, the order clearly stated that this promotion did not grant him any right to claim regularization or seniority in the post of Assistant.

4. The Petitioner obtained an M.A. degree through the open university system from Annamalai University without first acquiring an undergraduate (UG) degree or completing the higher secondary course before enrolling in the M.A. program. As outlined in Annexure I of the second Respondent University's statutes, the prescribed method of recruitment, qualifications, and required experience for various posts are clearly defined:



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S.No.	Category	Method of Recruitment	Qualification and Experience
1.	Assistant/Assistant Section Officer	By Promotion from the cadre of Junior Assistant/Assistant	At least 3 years of service in the cadre of Junior Assistant, who are not graduates, shall be eligible for promotion as Assistants. But shall not be eligible to draw increments until they acquire a degree. (The Junior Assistant should pass the Account Test for subordinate officers Part-1 conducted by the T.N.P.S.C. To be eligible for promotion. The existing incumbents in the post of Assistant, Superintendents and Assistant Registrars should pass Account Test Part-1. This Rule will come into effect after 5 years from the date of assent of the statutes.

5. The University maintained that the prescribed qualifications require a candidate to have completed a degree course under the 10+2+3 pattern and to



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have passed the Account Test-I. In support of this, they cited the order issued by the first Respondent in G.O.(Ms) No.107, dated 18.08.2009, wherein the government mandated that passing the Plus Two (Higher Secondary) examination is an essential prerequisite. Furthermore, it was stipulated that individuals who have obtained degrees without completing higher secondary education would not be deemed eligible for posts in government departments as well as promotions in those departments.

6. In this regard, reference must be made to the Hon'ble Supreme Court's judgment in *Annamalai University, represented by its Registrar vs. Secretary to Government, Information & Tourism Department*, reported in 2009 (4) SCC 90, where this issue was considered by the Hon'ble Supreme Court. The Court rejected the plea seeking recognition of an M.A. degree obtained without completing undergraduate (U.G.) and school education, affirming the government's stance of not recognizing such degrees. The Court observed:

"29. The only point which survives for our consideration is as to whether the purported post facto approval granted to the appellant University of programmes offered through distance modes is valid. DEC may be an authority under the Act, but its orders ordinarily would only have a prospective effect. It having accepted in its letter dated 5.5.2004 that the



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appellant - University had no jurisdiction to confer such degrees, in our opinion, could not have validated an invalid act. The degrees become invalidated in terms of the provisions of UGC ACT. When mandatory requirements have been violated in terms of the provisions of one Act, an authority under another Act could not have validated the same and that too with a retrospective effect. The provisions of UGC Act are not in conflict with the provisions of Open University Act. It is beyond any cavil of doubt that UGC Act shall prevail over Open University Act."

7. Likewise, a request to recognize the M.A. degree as equivalent to an undergraduate (U.G.) degree for admission to a law college was also rejected by Hon'ble Justice V. Ramasubramanian (as he then was). The learned judge remarked on individuals obtaining such qualifications in his ruling in *G. Bappudurai vs. The Registrar*, reported in 2015 (1) CWC 514, and held as follows:

"25.. When the expression "degree" was defined in the statutes, the law makers never imagined the kind of inventions that could happen in the field of education, entitling people to acquire all qualifications in the reverse or perverse order. At the time when the expression "degree" was defined in the Statute,



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people would have honestly believed that a student would undertake a journey from the first standard up to the school final in a sequence and thereafter undergo the entire duration of the degree course. No one would have ever imagined even in the wildest of dreams at that time, that people may acquire a Post Graduate Degree first, followed by an Under Graduate Degree and thereafter complete the Higher Secondary Course, eventually to go to a Kindergarten. Even in the matter of wearing costumes, we follow a particular order. The only exception to this is that of the Superman. People who complete educational courses in the reverse order can only be compared to Superman, the comic book hero."

8. Accordingly, the Petitioner is admittedly not entitled to the relief sought in this writ petition, as he does not meet the minimum qualification required for the post. In Paragraph 8(f) of his affidavit, the Petitioner cited a judgment in W.A (MD) No. 642 of 2012 concerning K. Ravikumar, asserting that the University had recognized the degree obtained by Ravikumar through an open university system. Based on this, the Petitioner argued that he should also be granted the same benefit.



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9. In this regard, the counter affidavit filed by the second Respondent in

Paragraphs 9 and 10 stated as follows:

"9. I submit that the petitioner mentioned that a writ appeal referred one Ravi Kumar Writ Appeal (MD) No.642 of 2012, he states that in the case, both government notifications were given a go-by, though he did not possess the requisite qualification 10+2+3, he was provided with all the emoluments and benefits of promotion is absolutely false. Considering the continuous judgments made by our High Court decisions, the audit section has objected to such promotion and increased emoluments and has not provided any ulterior treatment as he has not possessed the requisite qualification of 10+2+3. I submit that the case of K. Ravikumar is different from the present case. The said K. Ravikumar completed his Undergraduate Degree through correspondence course, and obtained U.G. Degree before completing P.G. Degree. But the petitioner has not completed his U.G. Degree before his P.G. Degree. Moreover, the writ appeal K. Ravikumar claimed the post of Deputy Registrar as he possessed four years of administrative experience in the post of Assistant Registrar.



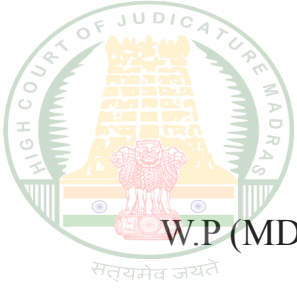
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10. I submit that the petitioner does not possess a valid undergraduate degree and cannot claim the benefits as he has not passed both higher secondary education, that is +2, as well as the undergraduate degree, on which both Notifications lay emphasis to. By summing up both the G.O.(MS):107 and 116, it places a clear mandate that a candidate must possess a higher secondary education certificate in the form of +2, as well as a valid undergraduate degree from a recognized university in order to get the benefits of his Post Graduation degree (M.A.), for appointment as well as for promotions. Even in the K. Ravikumar matter with regard to the writ appeal in W.A.(MD) No. 642 of 2012, where the petitioner claims that additional benefits were given to him, were recovered, as per the objections from the Audit department. And even now, the 10+2+3 pattern is followed in our University, for promotion and for appointments."

10. Therefore, the Petitioner has failed to establish any claim of discrimination regarding the fixation of pay in connection with his promotion to the post of Assistant Section Officer. Furthermore, he did not meet the required qualifications for the promotion, as per the government orders, which were upheld by the Hon'ble Supreme Court. Hence no case is made out,



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W.P (MD) No. 18261 of 2017 stands dismissed. No costs.

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14.02.2025

Neutral Case Citation: Yes/No
Index:Yes/No
Internet: Yes/No
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To

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(Convenor of Syndicate Sub Committee for
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A.D.MARIA CLETE, J.

Shk/av

Pre-Delivery Judgment made in
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