

(2006) 02 MAD CK 0062

In the Madras High Court

Case No : Writ Petition No. 27035 of 2005 (T) and O.A. No. 5728 of 2002

M. Govindaraj

APPELLANT

Vs

The Government of Tamil Nadu

RESPONDENT

Date of Decision : 24-02-2006

Acts Referred:

Tamil Nadu State and Subordinate Services Rules, 1955 — Rule 12

Citation : (2006) 02 MAD CK 0062

Hon'ble Judges : N. Paul Vasanthakumar, J

Bench : Single Bench

Advocate : V. Suthakar, for the Appellant; D. Malarvizhi, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

N. Paul Vasanthakumar, J.—The writ petition is filed to quash the order of the 3rd respondent dated 30.05.2002 and to consider the case

of the applicant for promotion to the post of Junior Assistant with retrospective effect viz. 1995-1996 and grant notional promotion to the post of

Junior Assistant with all consequential benefits such as seniority, arrears of pay, etc.

2.The grievance of the petitioner is that the petitioner was appointed as Record Clerk in Panchayat Development Department from 10.01.1973.

As per G.O.Ms.No. 963, Rule Development Department Dated 28.11.1990, 10% of the vacancy in the cadre of Junior Assistant shall be given

by promotion from the cadre of Record clerk and accordingly the applicant was included in the panel for promotion of Junior Assistant. However,

the petitioner was not given promotion on the ground that he had passed S.S.L.C. on 13.07.1993 in the State of Karnataka. In the impugned

order, the District Collector, Dharmapuri stated that the petitioner had secured only 31 marks in Social Science and the same is not to be treated

as a pass mark in the State of Tamilnadu. The District Collector prior to the said order sought for clarifications from the Karnataka Secondary

Education Examination Board on 12.09.2001. The Karnataka Secondary Education Examination Board had replied to the District Collector,

clarifying that the petitioner appeared S.S.L.C., Examination during the month of April 1993 and secured 35% aggregate in S.S.L.C. examination

and the same may be treated as pass in S.S.L.C. The said clarification given by the Karnataka Secondary Education Examination Board clearly

certified that the petitioner had passed S.S.L.C., examination.

3.The learned Counsel for the petitioner argued that he also satisfied the qualifications prescribed Under Rule 12 of the Tamil Nadu State and

Subordinate Service Rules, wherein it is stated as follows:

Passing S.S.L.C. examination eligible for admission for College course, University Course in this State.

4. The learned Counsel for the petitioner cited the counter affidavit of the Deputy Secretary to the Government Rural Department, Chennai 9, at

page 8, para 13, it is stated that:

The respondent are not imposing any additional conditions as stated by the applicant (d) that no body is refusing that the applicant is eligible for

higher studies even in Tamilnadu. But the fact is that the applicant cannot be considered for the appointment of Junior Assistant in Tamil nadu as he

has not acquired the Minimum General Educational Qualification as stated in G.O. (Ms).No.534, Personnel and Administrative Reforms

Department dated 13.10.1988m (e) that it is true that the applicant is one of the senior most record clerk in Dharmapuri District. But he has

passed SSLC Examination only in April 1993 in Karnatak State. As Ordered in G.O.Ms.No.534, Personnel and Administrative Reforms

Department Dated 13.10.1988, he has not acquired the Minimum General Educational qualification by securing 35% marks in each of the all 5

subjects in S.S.L.C. in Karnataka State.

5. The learned counsel for the petitioner therefore argued that the petitioner satisfied the minimum eligible qualification prescribed under Rule 12

and it is the admitted case of the Department that the S.S.L.C. certificate

obtained in the State of Karnataka is sufficient for higher studies in Tamil Nadu.

6. Even though the learned Government Advocate argued that the petitioner has not satisfied the conditions contained in G.O. Ms.No.534, P

&AR Dated 13.10.1988, it is clear that SSLC certificate obtained from the state of Karnataka, Kerala, and Andhra Pradesh dealt with certificates

obtained prior to 1978. The said Government Order nowhere deals with Rule 12 of the Tamil Nadu State and Subordinate Service Rules. As

rightly contended by the learned Counsel for the petitioner, Rule 12 of the Tamil Nadu State and Subordinate Service Rules will prevail over any

Government Order issued. The petitioner having satisfied Rule 12 of the Tamil Nadu State and Subordinate Rules, is entitled to get promotion as

Junior Assistant, as he has got SSLC qualification.

7. In view of my findings, the impugned order is unsustainable and the petitioner shall be treated as SSLC passed and fulfilled Rule 12 of the Tamil

Nadu State and Subordinate Service Rules. Since the learned Counsel for the petitioner contended that the petitioner having retired on

30.04.2005, his promotion can only be notional for fixation of pay and accordingly, the 3rd respondent is directed to pass appropriate orders

within six weeks from the date of receipt of copy of this Order.

8. With the above terms, the writ petition is allowed. No costs.