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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-07-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WA No. 2024 of 2026

and

C.M.P.No.17585 of 2026

1. The State of Tamilnadu
Rep.by its Secretary to Government,
Tourism, Culture and Religious Endowments
Department,
Secretariat,
Chennai – 600 009.
2. The Commissioner of Art and Culture
O/o The Directorate of Art and Culture,
Tamil Valarchi Valagam,
Chennai 600 008.
3. The Principal,
Government College of Architecture and
Sculpture,
Mamallapuram,
Chengalpattu District.

..Appellant(s)

Vs

E.Panchatcharam
Instructor (Rtd.),
Government College of Architecture and
Sculpture,
Mamallapuram 603 104
Chengalpattu District

Resi at No.11, Madhakoil Street,
Mamallapuram,
Mamallapuram Post,
Chengalpattu District



..Respondent(s)

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 12.03.2024 made in WP No.18677 of 2021 and allow the above Writ Appeal.

For Appellant(s): Dr.R.Gouri, Government Counsel

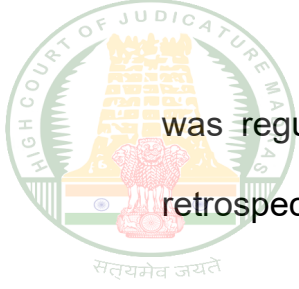
For Respondent(s): Mr.S.N.Ravichandran,
for Mr.K.Arumugam for Sole Respondent

JUDGMENT

(Judgment of the Court was delivered by S.M.Subramaniam J.)

The State of Tamil Nadu represented by its Secretary to Government, Tourism Sculpture and Religious Endowments Department along with the Commissioner, Arts and Culture and Government College for Architecture and Sculpture, preferred the present Writ appeal, challenging the writ order dated 12.03.2024.

2. The respondent was appointed as Museum Keeper on temporary basis on 23.12.1981 under Rule 10(a)(i) of the Tamil Nadu State and Subordinate Service Rules in Government College of Architecture and Sculpture, Mamallapuram. The initial appointment of the respondent was not in accordance with the recruitment rules in force. Since the post of Museum Keeper is falling under TNPSC, after obtaining concurrence from the TNPSC, the Government issued G.O.Ms.No.576, Tamil Development Culture and Religious Department, dated 27.11.1998, and the services of the respondent



was regularised, relaxing the rule framed for the post of Museum Keeper retrospectively with effect from 13.12.1981.

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3. On completion of Bachelor degree in Fine Arts & Sculpture in May 2000, a representation was submitted by the respondent to appoint him as Instructor in Sculpture. His request was rejected on the ground that there was no rules framed for the post of Instructor. The respondent filed W.P.No.7240 of 2006, in which, a direction was issued to consider his representation. The appellants herein rejected the claim of the respondent to appoint him as Instructor, by proceedings dated 30.12.2008. Challenging the said order, the respondent filed W.P.No.6369 of 2009.

4. The learned single Judge directed the authorities to consider the claim of the respondent. The State preferred a writ appeal in W.A.No.1932/2010. The said writ order was set aside by the Division Bench of this Court vide order dated 18.11.2010. Subsequently, Special/Adhoc Rules for the post of Senior lecturer/Lecturer were framed vide G.O.No.265 Tourism, Culture and Religious Endowments Department dated 24.10.2013 and G.O.Ms.No.264, Tourism, Culture and Religious Endowments Department dated 24.10.2013 respectively. Therefore, all promotions/ appointments are to be made strictly in accordance with the rules in force.



5. The respondent filed a writ petition claiming retrospective promotion to the post of Instructor from the year 2012 on the ground that he was allowed to perform duties as Instructor from the year 2012. The Writ Court, directed the authorities to consider the case of the respondent in accordance with the recommendations of the Principal of the College dated 20.07.2011.

6. The question arises whether retrospective promotion can be granted based on the recommendation of the Principal of the College to the post of Instructor.

7. All promotions are to be made strictly in accordance with the rules applicable to the post. Promotion *per se* cannot be claimed as vested right. The writ petition claiming promotion may be considered only if violation of statutory rules are established or overlooking seniority, juniors were promoted which is also to be construed as violation of rules. However, High Court, in exercise of powers of judicial review, may not issue a direction to grant promotion with retrospective effect, unless the promotion rules are violated or violations of the rules, i.e., juniors were promoted overlooking the senior. The promotion procedures are contemplated under the Service Rules. A panel of eligible candidates are to be prepared. Requisite qualifications are to be looking into and after publication of approved panel, promotions are to be granted. Mere acquisition of qualification would not be a ground to claim retrospective promotion.



8. In the present case, the respondent, possessed the degree in the year 2000, but such acquisition alone will not be a ground to grant promotion.

That apart, the promotion to the post of Instructor was not considered initially on account of want of service rules. However, the respondent states that he served as Instructor. In this context, the appellants would submit that as per the rules, the feeder category for the post of Instructor is not Museum Keeper. Therefore, the respondent, during the relevant point of time, was not eligible for the post of Instructor. Since the post of Museum Keeper was not a feeder category for promotion to the post of Instructor, the respondent, by way of concession was appointed by way of transfer of service to the post of Instructor vide proceedings dated 07.10.2015. He joined as Instructor on 09.10.2015.

9. The State would submit that the respondent was discharging his duties as Museum Keeper situated in a separate campus and the said post is purely a non-teaching category. Since the respondent had not worked as Instructor in 2012, appointment to the said post was not given from the year 2012. Even if an employee is qualified for a particular post, it would not raise a cause to claim retrospective promotion. In the present case, no other junior to the respondent was promoted to the post of Instructor. His case was considered for appointment by way of transfer of service in the year 2015, since he was not holding the feeder category post in the year 2012.



10. Retrospective promotion may be considered by the authorities as well as by the Courts only in the event of grant of promotion to any of the juniors in violation of the rules or overlooking the name of the senior, since promotion is not a right. Retrospective promotion is to be granted only in such circumstances. Therefore, the very claim set out by the respondent for grant of retrospective promotion merely on the ground that he possess qualification is untenable. The relief, seeking retrospective promotion on the ground that an employee possess qualification and the post is available, cannot be considered by the Courts for grant of retrospective promotion. Infringement of promotional right is to be established and that being the principles to be followed, the order granting retrospective promotion by the writ Court is running counter to the principles governing the grant of promotions.

11. In the present case, the respondent retired from service on 31.05.2016 and all his retirement benefits were settled. He was promoted to the post of Instructor with effect from the year 2015. The order *pre se* would show that since the respondent was having 8 months of service, he was appointed as Instructor. Except the said reason, no other reason has been given. Therefore, this Court is of the considered view that the promotion granted to the post of Instructor itself is a concession extended. Therefore, now the respondent cannot claim retrospective promotion to the post of Instructor with effect from the year 2012.



12. In view of the above reasons, the writ order dated 12.03.2024 is set aside. The Writ Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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(S.M.S.,J.) (N.S.,J.)
22-07-2026

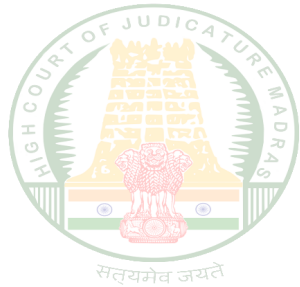
Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

VSI

To

E.Panchatcharam
Instructor (Rtd.),
Government College of Architecture and
Sculpture,
Mamallapuram 603 104
Chengalpattu District

Resi at No.11, Madhakoil Street,
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**S.M.SUBRAMANIAM, J.
and
N.SENTHILKUMAR, J.**

vsi

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