

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.04.2016

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.Nos.12509 to 12511 of 2016 and
W.M.P. Nos.10825 to 10827 of 2016

A.Muthukumar .. Petitioner in W.P.
No.12509 of 2016

V.Sakthivel ... Petitioner in W.P.
No.12510 of 2016

S.Rammesh ... Petitioner in W.P.
No.12511 of 2016

vs

1.State of Tamil Nadu,
rep. by the Secretary to Government,
Higher Education Department,
Secretariat, Chennai-600 009.

2.The Director of Technical Education,
Directorate of Technical Education,
Guindy, Chennai-600 025.

3.The Additional Director of
Technical Education,
Directorate of Technical Education,
Guindy, Chennai-600 025. .. Respondents

Writ petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the first respondent to promote the petitioners to the post of Instructor or to the post of Lecturer with effect from the date of promotion given to other similarly situated candidates as per G.O. Ms.No.95, Higher Education (C1) Department, dated 26.03.2008 passed in pursuance of the order of the Hon'ble Division Bench in W.A. No.1323 of 2011 dated 02.11.2011 and G.O. Ms. No.121, Higher Education (C1) Department, dated 01.04.2011 passed in pursuance of the order of this Court in W.P. No.9905 of 2001 dated 10.07.2009 and W.A. No.807 of 2015 dated 19.06.2015 and also G.O. Ms. No.20, Higher Education Department, dated 01.02.2016 with all monetary and service benefits.

For Petitioners : Mr.R.Singaravelan,
Senior Counsel for
Ms.M.Srividhya

For Respondents : Mr.R.Vijaya Kumar,
Additional Government Pleader

O R D E R

These writ petitions have been filed by the petitioners, seeking a direction to the first respondent to promote them to the post of Instructor or to the post of Lecturer with effect from the date of promotion given to other similarly situated candidates as per G.O. Ms.No.95, Higher Education (C1) Department, dated 26.03.2008 passed in pursuance of the order of the Hon'ble Division Bench in W.A. No.1323 of 2011 dated 02.11.2011 and G.O. Ms. No.121, Higher Education (C1) Department, dated 01.04.2011 passed in pursuance of the order of this Court in W.P. No.9905 of 2001 dated 10.07.2009 and W.A. No.807 of 2015 dated 19.06.2015 and also G.O. Ms. No.20, Higher Education Department, dated 01.02.2016 with all monetary and service benefits.

2.Learned counsel appearing for the petitioners would submit that the petitioners after passing Electrical and Electronics Engineering, Diploma in Mechanical Engineering and Diploma in Automobile, have acquired M.E. and B.E. respectively and were selected for appointment to the post of Workshop Instructor through the Employment Exchange. The grievance of the petitioners is that there is no promotional chance to the petitioners after the abolition of the Instructor post. Since the respondents have abolished the post of Instructor, by order dated 19.08.1989 in G.O. Ms. No.1081, the recruitment to the post of Instructor has been discontinued and the Instructors, already in service on the date of the said Government Order, would be promoted to the post of Associate Lecturer as and when they acquire the required degree qualification. This was challenged by way of filing W.P. No.9111 of 1997 and this Court passed an order on 10.09.2004, setting aside the order of the Additional Director, Polytechnic, Directorate of Technical Education, dated 19.02.1993, sanctioning one temporary post of Instructor for the candidate having the qualification of Computer Science and two years previous experience as it was against the interest of the candidates working as Draughtsman, who were entitled for promotion to the post of Instructor (Civil) and Instructor (Mechanical) on the basis of G.O. Ms. No.1364 dated 16.08.1988.

Learned counsel would further submit that the writ petitions filed by the petitioners therein were allowed on the ground that the policy decision taken by the Government not to

fill up the post of Instructor as per G.O. Ms. No.1081 dated 19.08.1989, cannot defeat the promotional chances of the writ petitioners therein and the sanction of the post of Instructor (Computer Science), when other technically qualified candidates are available for the post of Instructor. Against the said order, the writ appeals came up before the Hon'ble Division Bench of this Court on 01.08.2007, were dismissed, confirming the order of the learned Single Judge passed in the writ petitions. Subsequently on the basis of the order, the Government also had chosen to pass an order in G.O. Ms. No.95, Higher Education (C1) Department, dated 26.03.1998, giving promotion to the candidates, namely, R.Vijayakumar, P.Loganathan, G.Ravi and Ubald Prakash to the post of Instructor. Therefore, the case of the petitioners also deserves to be considered in the light of the G.O. Ms. No.95, Higher Education (C1) Department, dated 26.03.1998.

3.Learned Additional Government Pleader appearing for the respondents would submit that the Government has already issued a Government Order in G.O. Ms. No.20, Higher Education Department, dated 01.02.2016 saying that this cannot be cited as a precedent, since the post of Instructor has already been abolished by G.O. Ms. No.1081 dated 19.08.1989.

4.Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents.

5.This Court, already setting aside the said G.O. No.1081, has given direction to the respondents to promote the similarly placed persons as that of the petitioners to the post of Instructor. As the grievance of the petitioners is that they could be given promotion as that of the similarly placed persons, the same deserves to be considered by the respondents. Accordingly, the first respondent is directed to consider the case of the petitioners, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order, in the light of G.O. Ms.No.95, Higher Education (C1) Department, dated 26.03.2008.

6.Accordingly, these writ petitions are disposed of. Consequently, connected W.M.Ps are closed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Secretary to Government,
State of Tamil Nadu
Higher Education Department,
Secretariat, Chennai-600 009.

2.The Director of Technical Education,
Directorate of Technical Education,
Guindy, Chennai-600 025.

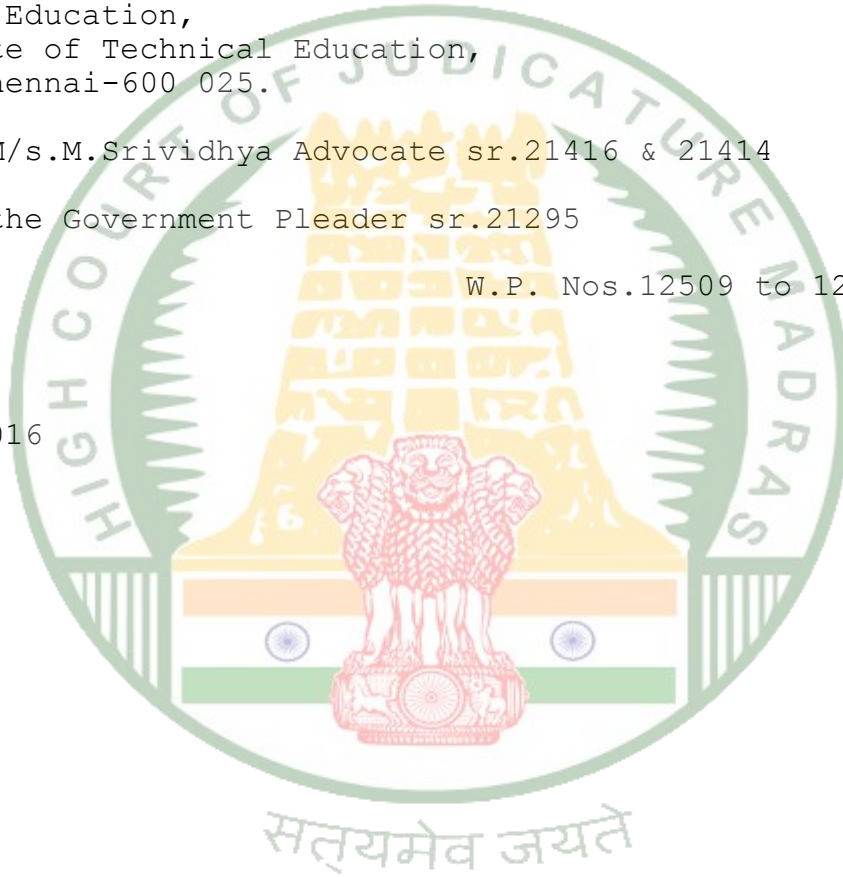
3.The Additional Director of
Technical Education,
Directorate of Technical Education,
Guindy, Chennai-600 025.

+1 cc to M/s.M.Srividhya Advocate sr.21416 & 21414
21415

+1 cc to the Government Pleader sr.21295

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