

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2016

CORAM:

THE HONOURABLE Mr. JUSTICE T.RAJA

W.P. No.15903 of 2016

A.Santhi

.. Petitioner

-vs-

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

2.The Principal Secretary/
Commissioner of Technical Education,
Chennai 600 025.

3.The Principal
Arulmigu Palaniandavar Polytechnic College,
Palani, Dindigul District.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the respondents to promote the petitioner as Instructor in Modern Office Practice Department with effect from 01.06.2012 in the light of the order issued in G.O. Ms. No.20, Higher Education Department, dated 01.02.2016 by considering the representation dated 20.04.2016 made by the petitioner and confer all the consequential benefits.

For petitioner : Mr.C.Selvaraj,
Senior Counsel for
M/s.C.S.Associates

For respondents : Mr. S.Gunasekaran,
Additional Government Pleader
for R1 and R2

ORDER

The petitioner A.Santhi has come to this Court, seeking a direction to the respondents to promote her as Instructor in Modern Office Practice Department with effect from 01.06.2012 in the light of the order issued in G.O. Ms. No.20, Higher Education Department, dated 01.02.2016, by considering her representation dated 20.04.2016 and confer all the consequential benefits.

2.The grievance of the petitioner is that she was appointed as Laboratory Assistant on 09.09.1982 in the third respondent Polytechnic College. She had passed B.Com. in the year 1992, M.Com. in the year 2006 and M.Phil. in the year 2008. The petitioner had also passed Typewriting Higher Grade both in English and Tamil and also Technical Teacher Certificate in the year 1988 and Certificate Course in Computer in the year 2012. While so, one post of Instructor in Non Engineering in the third respondent Polytechnic College became vacant in the year 2006. Though she was fully qualified for the above said post of Instructor, she was not considered and one Ramachandran was appointed in the year 2006. Thereafter, on coming to know about the vacancy in the post of Instructor, the petitioner made a representation on 30.12.2011. As per the Special Rules framed in G.O. Ms. No.220, Higher Education Department, dated 06.07.2009, the post of Instructor has to be filled up by way of promotion. Since the petitioner's claim was not considered, she approached this Court by way of filing a Writ Petition No.1535 of 2012 and this Court directed the respondents therein to consider and pass orders on the petitioner's representation dated 30.12.2011, by order dated 17.12.2012. Despite the Court order, the second respondent rejected the petitioner's claim, by order dated 10.02.2015 on the ground that the post of Instructor has been dispensed with by the Government in G.O. Ms. No.1081, Education Department, dated 19.08.1989. As the petitioner's claim cannot be considered and the post of Instructor has been removed from the Special Rules by way of amendment in G.O. Ms. No.184 Higher Education Department dated 15.10.2014, the petitioner has filed a Writ Petition before this Court in W.P. No.13421 of 2015 and the same is pending. In the similar circumstances, this Court, in W.P. No.14823 of 2013 dated 29.05.2013, issued direction to the respondents therein to consider the promotion. As against the order in the above W.P. No.14823 of 2013, the respondents therein filed a Writ Appeal in W.A. No.807 of 2015 and the same was dismissed on 19.06.2015. As against the same, the respondents therein filed S.L.P. before the Hon'ble Apex Court and the said S.L.P. was also dismissed and the Government had also issued Government Order in G.O. Ms. No.20, Higher Education Department dated 01.02.2016. While so, the petitioner made representation to the respondents on 20.04.2016, requesting the respondents to re-consider her grievance, in the light of the order issued by this Court, which was confirmed by the Hon'ble Apex Court and the order issued by the Government in the said G.O. Ms. No.20, Higher Education Department dated 01.02.2016, and to give promotion as Instructor in Modern Office Practice Department with effect from 01.06.2012. As no orders have been passed by the respondents till date, she is before this Court.

3.Heard the learned counsel appearing for the petitioner as well as Mr.S.Gunasekaran, learned Additional Government Pleader, who takes notice on behalf of respondents 1 and 2.

4.In spite of finality reached with regard to the claim of the petitioner and the same has also been confirmed by the Hon'ble Apex Court, the representation made by the petitioner deserves to be considered. Therefore, the respondents are directed to consider the petitioner's representation dated 20.04.2016 and pass orders, on merits and in accordance with law, in the light of the order issued in G.O. Ms. No.20, Higher Education Department, dated 01.02.2016, within a period of eight weeks from the date of receipt of a copy of this order.

5.With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

vga

To

1.The Secretary to Government,
Higher Education Department,
Secretariat, Chennai-600 009.

2.The Principal Secretary/
Commissioner of Technical Education,
Chennai 600 025.

1 cc to M/s.C.S. Associates, Advocate, Sr. 27070
1 cc to Government Pleader, Sr.26826

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