

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2016

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THE HONOURABLE MR. **JUSTICE R.SUBBIAH**

Writ Petition No.32846 of 2016

R.Neelamegam

... Petitioner

VS.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Tourism, Culture and Religious,
Endowments Department
Secretariat, Chennai-9

2.The Commissioner of Art & Culture,
Directorate of Art and Culture,
Halls Road, Egmore,
Chennai-8

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the second respondent to consider the claims of the petitioner and pass orders on the representation of the petitioner dated 25.4.2016 in regard to promotion of the petitioner as Lecturer with effect from 27.11.2000 and fix the seniority on par with the petitioner's juniors with all benefits.

For Petitioner : Mr.G.Elanchezhiyan

For Respondents : Mr.S.Gunasekaran
Addl. Govt. Pleader.

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the second respondent to consider his claim and pass orders on his representation dated 25.4.2016 in regard to promotion as Lecturer with effect from 27.11.2000 and fix the seniority on par with his juniors with all benefits.

3. The case of the petitioner, in brief, is as follows:-

(a) The petitioner was initially appointed as part time instructor in Architectural Brick Work on contract basis and posted to Government College of Architecture and Sculpture, Mamallapuram on 4.8.1986 and he worked till 1991 with artificial break. Thereafter, after bifurcation of Technical Education Department, he was appointed as Assistant Instructor on contract basis till 3.1.199 and on 4.1.1999, he

was appointed on regular basis in the said post and after that, he was appointed as Lecturer.

(b) The petitioner made a representation dated 28.10.1994 to the Director of Art and Culture to regularize his service in the post of Assistant Instructor, who in turn, sent a proposal dated 16.3.1995 to the Government. But, his service was not regularized. Hence, he filed a writ petition before this Court in W.P.No.4252 of 2008 and this Court, directed the respondent therein to consider his claim in the light of G.O.Ms.No.42, Tourism and Culture Department dated 28.3.2007. Based on the said direction, the respondent regularized his service in the post of Instructor only from 4.8.1986 onwards, but not regularized his service in the post of Lecturer from 12.1.2001 onwards and the reason stated by the respondents is that the proposal for framing adhoc rules to the post of Lecturer is pending with the Government.

(c) Subsequently, similarly placed persons approached this Court by filing writ petitions in W.P.No.16533 of 2012, etc, and this Court directed the first respondent therein to consider the framing of adhoc rules within three months. Pursuant to the directions, the Government framed adhoc rules to the post of Lecturer and Associate Lecturer in

G.O.Ms.No.264 Tourism, Culture and Religious Endowments Department, dated 24.10.2013. Based on the service rules, the service one J.Rajendran alone was regularized, but the respondents could not regularize the service of the other Lecturers. Hence, the petitioner sent a representation dated 24.1.2014 to the Principal, Mahabalipuram College, who in turn sent a proposal to the Government, requesting them to amend the service rules. After receiving the said proposal, the respondents 1 and 2 have not passed any orders. In this regard, the petitioner sent a representation dated 25.4.2016 to the second respondent to promote him as Lecturer on par with his juniors. Since the same was also not considered so far, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the second respondent to consider the representation of the petitioner

dated 25.4.2016 seeking promotion as Lecturer with effect from 27.11.2000 and fix the seniority on par with his juniors with all benefits, and pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the claim projected by the petitioner and it is for the second respondent to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

20.09.2016

Index:Yes/No
sbi

To

- 1.The Secretary to Government,
Tourism, Culture and Religious,
Endowments Department,
Secretariat,
Chennai-9
- 2.The Commissioner of Art & Culture,
Directorate of Art and Culture,
Halls Road, Egmore,
Chennai-8

R.SUBBIAH, J

sbi

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