

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.32260 of 2016

and W.M.P.No.27976 of 2016

M.Ethirajulu

... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary
to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai- 600 009.

2. The State Council of Educational
Research & Training,
College Road, Subba Road Avenue,
Nungambakkam,
Chennai-600 006.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to promote the petitioner to the post of Senior Lecturer based on regular pre-revised seniority and eligibility for the year 2016, on par with juniors with all consequential and other attendant benefits, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

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 respondents to promote him to the post of Senior Lecturer based on regular pre-revised seniority and eligibility for the year 2016, on par with juniors with all consequential and other attendant benefits.

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

(a) The petitioner has been qualified with M.A. (History) and M.Ed. He was selected and appointed to the post of Junior Lecturer (History) in District Institute of Education and Training (DIET) under the Directorate of Teacher Education, Research & Training (DTERT), presently called as State Council of Educational Research & Training (SCERT) on 20.12.2002. Subsequently, he passed all the Departmental Tests within the period of probation and thereby his probation was declared as satisfactory.

(b) While so, one L.Uma, who was not qualified with M.Ed., which is the basic requisite qualification for appointment to the post of Lecturer as per NCTE Rules, was issued with order of appointment to the post of Junior Lecturer (Telugu) on 14.12.2002 subject to several conditions including the condition that she should have qualified with M.Ed., within a period of three years from the date of appointment. Since, the said L.Uma was not qualified with M.Ed., Degree within a period of three years as directed, her probation was not declared within the statutory period. However, she was placed above the petitioner in the panel for Lecturer prepared on 1.1.2009. Hence, the petitioner submitted a representation to revise the seniority. But, his claim was rejected on 26.6.2010 without proper verification of records. Therefore, the petitioner filed a writ petition before this Court in W.P.No.19778 of 2011 challenging the order of the second respondent dated 26.10.2010. This Court, by an order dated 12.3.2012, allowed the said writ petition by quashing the impugned order and remanded the matter back to the second respondent, to pass orders afresh, in accordance with law.

(c) In the meantime, the Department itself passed orders revising the seniority by placing the petitioner in Sl.No.8 and placing the said L.Uma in Sl.No.10 in and by an order dated 24.1.2012. In the said circumstances, the said L.Uma filed a miscellaneous petition to set aside the order passed in W.P.No.19778 of 2011 dated 12.3.2012, wherein final orders were passed on 13.10.2012 dismissing the writ petition. Challenging the said order, the petitioner filed an appeal before this Court in W.A.No.89 of 2014 and the same is pending.

(d) While so, by proceedings dated 11.12.2015, the second respondent issued proper panel for the year 2015 for promotion to the post of Senior Lecturer, wherein the petitioner has been included in Sl.No.3 and the name of L.Uma was not included since she is outside the zone of consideration based on seniority. Challenging the said proceedings dated 11.12.2015, the said L.Uma filed a writ petition before this Court in W.P.No.40616 of 2015 and in the said writ petition, an order of interim stay was granted. However, the petitioner is entitled to get promotion to the post of Senior Lecturer based on his pre-revised seniority.

(e) While so, the second respondent, for the year 2016, without publishing any fresh panel for promotion to the post of Senior Lecturer, proceeded to give promotion to the eligible persons working in the post of Lecturer. Accordingly, even the petitioner's juniors have been given promotion to the post of Senior Lecturer on 31.8.2016, whereas he has not been considered. In this regard, he sent a detailed representation dated 9.9.2016 to the respondents requesting them to give promotion to the post of Senior Lecturer. But, the same was not considered so far. Hence, 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 respondents to consider the representation of the petitioner dated 9.9.2016 seeking promotion to the post of Senior Lecturer based on regular pre-revised seniority and eligibility for the year 2016, on par with juniors with all consequential and other attendant benefits and pass appropriate orders, on merits and in accordance with law, within a period of four 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 respondents to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst. Registrar.

/true copy/

Sub Asst. Registrar.

sbi

To

1.The Principal Secretary to Government,
State of Tamil Nadu,
School Education Department,
Secretariat, Fort St. George,
Chennai- 600 009.

2. The State Council of Educational
Research & Training,
College Road, Subba Road Avenue,
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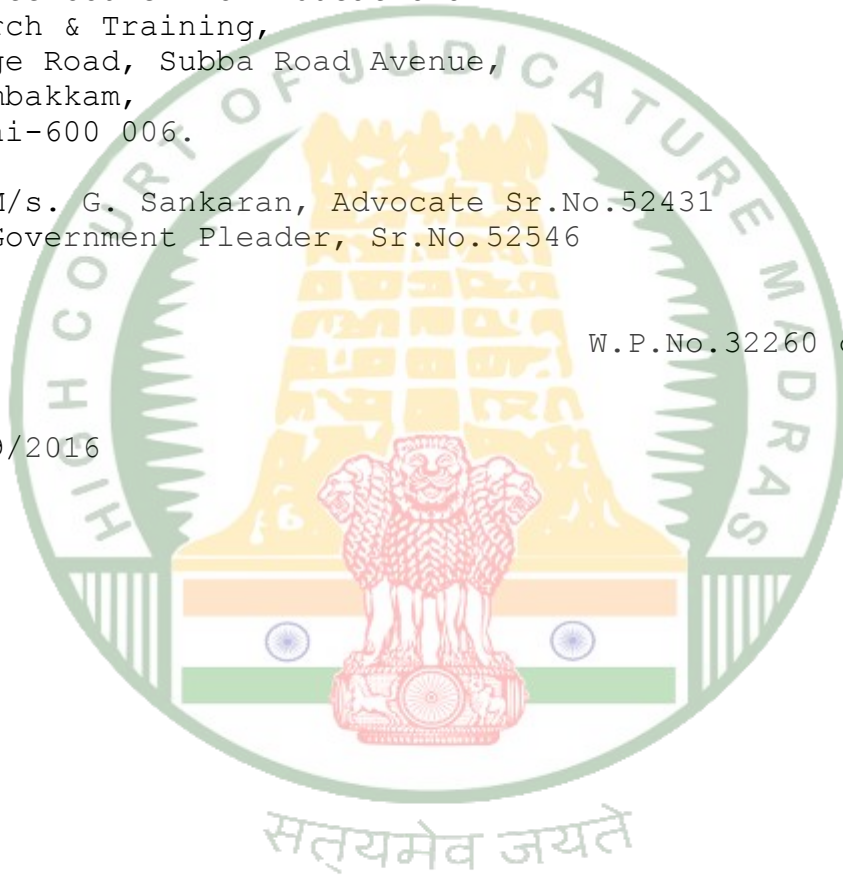
+1 CC to M/s. G. Sankaran, Advocate Sr.No.52431

+1 CC to Government Pleader, Sr.No.52546

W.P.No.32260 of 2016

MPI (CO)

MD : 21/09/2016



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