

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.10.2017

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.26273 of 2017

R.Balaji

...Petitioner

Versus

1. The State of Tamil Nadu
rep. by the Chief Secretary to Government,
Fort St. George,
Chennai-9.
 2. The Secretary to Government,
Higher Education (C2) Department,
Fort St. George, Chennai-9.
 3. The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai-25.
 4. P.T.Lee. Chengalvaraya Naicker Polytechnic College
rep. by its Principal, Vepery,
Chennai-7.
- ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to issue orders promoting the petitioner to the post of Junior Assistant with retrospective effect from the date of eligibility of the petitioner or from the date of occurrence of the vacancy in pursuant to the orders dated 22.4.2016 passed by the Division Bench in a batch of Writ Appeals in WA (MD) Nos.772/2010 and batch and also in pursuance to the directions issued by the Division Bench on 6.1.2005 in W.P.No.11256/2003 with consequential monetary and service benefits.

For Petitioner : Mr.R.Singaravelu,
Senior Counsel
for M/s.D.Subramaniam

For Respondents : Mr.P.Sanjay Gandhi,
Additional Government Pleader

O R D E R

retrospective effect from the date of eligibility of the petitioner or from the date of occurrence of the vacancy in pursuant to the orders dated 22.4.2016 passed by a Division Bench of the Madurai Bench of this Court in a batch of Writ Appeals in WA (MD) Nos.772/2010 etc. batch and also in pursuant to the directions issued by the Division Bench on 6.1.2005 in W.P.No.11256/2003 with consequential monetary and service benefits.

2. Although the prayer is so widely worded, this Court while expressing its reservation in accepting the same prayer, the learned Senior Counsel appearing for the petitioner, however, pleaded that the representation given by the petitioner seeking promotion to the respective post may be considered from the date on which the vacancy arises.

3. The case of the petitioner is that he was initially appointed as Office Assistant on 16.02.2001 in the 4th respondent Polytechnic College and till date he is continuing in the same post after awarding Selection Grade and thus, he has put in 17 years of service in the education institution. Since the Polytechnic in which he is working is managed by the Governing Council which is the statutory body constituted as per Grant-in-Aid Code framed vide G.O.Ms.No.1282, Education Department, dated 26.07.1967, the promotions are given to the staff members based on seniority in all educational institutions like Government Arts and Science Colleges, Government Aided Arts and Science Colleges, Government Schools, Government Aided Schools, Government Polytechnic Colleges except the Government Aided Polytechnic Colleges. The Managements of Government Aided Polytechnic Colleges alone are denying promotions to the staff members based on seniority with the full knowledge of the 3rd respondent, namely, the Commissioner of Technical Education for the reasons best known to them.

4. Under such circumstances, when promotions were denied, a batch of Writ Petitions in W.P.(MD) No.9860/2007 etc. batch came to be filed before the Madurai Bench of this High Court praying for issuance of a (i) Writ of Mandamus, directing the respondents to promote the petitioner to the post of Head of the Department in Structural Engineering in Arulmigu Palaniandavar Polytechnic College, Palani, by strictly following the seniority-cum-merit and in accordance with law (WP(MD) No.9860/2007), (ii) Writ of Certiorarified Mandamus to call for the records pertaining to the orders passed by the 2nd respondent in his Proceedings in Na.Ka.No.19369/2009/Z3 dated 29.4.2009 and the 3rd respondent in his proceedings in Letter No.1140/A4/2009 dated 15.4.2009, quash the same and direct the respondents to promote the petitioner as an Assistant as per rules and confer all consequential benefits (WP (MD) No.6291/2009); and (iii) Writ of Mandamus forbearing the respondents from in anyway filling up the post of Head of Department in all the Departments in the 2nd respondent college (WP (MD) No.7640/2013).

<https://hcservices.ecourts.gov.in/hcservices/>

5. This Court by a Common Order dated 22.4.2016 while disposing of the said Writ Petitions, holding that the

contention of the management that all posts are liable to be filled up only by direct recruitment through Selection Committees specially constituted and that the aforesaid Government Orders are applicable only for revision of pay scales and not for appointment, does not merit acceptance, directed the respondents therein to consider the claim of the writ petitioners therein for promotion to various posts in accordance with G.O.Ms.No.1081 dated 19.8.1989 read with G.O.Ms.No.126, Higher Education Department, dated 28.3.1999, G.O.Ms.No.563 dated 31.12.2004 and G.O.Ms.No.220, Higher Education dated 6.7.2009. The Writ Appeals, namely, W.A.(MD) Nos.772 of 2010, 814/2011 and 23/2012 filed along with the said Writ Petitions were all dismissed by the same Common Order. Hence, seeking the same treatment to the petitioner herein also, the petitioner has given a representation dated 19.6.2017 to the respondents. But the same has also not been considered. Hence the petitioner has approached this Court by way of filing the present Writ Petition.

6. Mr.P.Sanjay Gandhi, learned Additional Government Pleader who takes notice for the respondents would concede that the issue in dispute is covered by a batch of Writ Petitions in W.P.(MD) No.9860/2007 etc. pursuant to which various Government Orders were passed in favour of the petitioner. He would further submit that sufficient time may be granted to consider the representation of the petitioner herein and to pass appropriate orders.

7. Considering the facts and circumstances of the matter and also the fact that the issue-in-dispute is covered by the decision of the Division Bench of Madurai Bench of this Court in a batch of Writ Petitions in W.P.(MD) No.9860/2007 etc. batch pursuant to which various Government Orders were passed as stated supra, this Court hereby directs the 3rd respondent, namely, the Commissioner of Technical Education, Directorate of Technical Education, Guindy, Chennai, to consider the representation of the petitioner dated 19.06.2017 on merits and in accordance with law and also in the light of the decision of the Division Bench of the Madurai Bench of Madras High Court in W.P.(MD) No.9860/2007 etc. batch dated 22.04.2016 and communicate the same to the 2nd respondent, within a period of eight weeks from the date of receipt of a copy of this Order, who in turn, on receipt of the same shall pass final orders on the same within a period of four weeks thereafter.

8. With the above directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO)

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To

1. The Chief Secretary to Government,
State of Tamil Nadu,
Fort St. George,
Chennai-9.
2. The Secretary to Government,
Higher Education (C2) Department,
Fort St. George, Chennai-9.
3. The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai-25.

+1cc to the Government Pleader, S.R.No.72681

W.P.No.26273 of 2017

SK(CO)
GN(16/11/2017)



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