

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.11.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

WP.Nos.34324 to 34326 of 2012

and

W.P.No.27254 of 2010

R.Ganesan .. Petitioner in WP.No.34324/2012
G.Santhanam .. Petitioner in WP.No.34325/2012
P.Sivakumar .. Petitioner in WP.No.34326/2012
D.Ezhilmaran .. Petitioner in WP.No.27254/2010

Vs.

1.The Principal Secretary/Commissioner,
Directorate of Technical Education,
Chennai - 25.

2.The Secretary to Government,
Higher Education Department,
Chennai - 9.

.. Respondents in all the WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records connected in Letter No.31766/P2/2008-1, dated 14.07.2009 of the 1st respondent and quash the same in so far as the petitioners are concerned and direct the respondents to promote the petitioners as Instructor as per the Rules with all benefits.

(In all the Writ Petitions)

Petitioner : Mr.G.Elanchezhiyan

Respondents : Mr.R.Govindasamy

Special Government Pleader

COMMON ORDER

I have heard the submissions of Mr.Elanchezhiyan, learned counsel appearing for the petitioner in all the writ petitions and Mr.R.Govindasamy, learned Special Government Pleader appearing for the respondents.

2.W.P.No.27254 of 2007 has been filed by Mr.D.Ezhilmaran, who is working as a Junior Draughting Officer (Mechanical), Institute of Chemical Technology. The prayer in the said Writ Petition is challenging the letter issued by the 1st respondent in letter No.31766/P2/2008-1 dated 14.07.2009 whereby the petitioner have been denied promotion to the post of instructor and accordingly in the said petition he has prayed for setting aside the said letter and granting consequential promotion to the said post of Instructor.

3.W.P.No.34324 of 2012 has been preferred by Mr.R.Ganesan, W.P.No.32325 of 2012 by Mr.Santhanam and W.P.No.32326 of 2012 by Mr.P.Sivakumar, challenging the same letter and praying for consequential promotion to the post of Instructor.

4.It is the case of the petitioners that all of them had joined duty and have been working for several years in the Institute of Chemical Technology, Tharamani, Chennai and though they have rendered service for a very long time, they have not been given any promotion and their request have been negated by the 1st respondent. Persons similarly situated by the petitioners herein have preferred W.P.Nos.8327 and 8328 of 2011, dated 25.09.2012 whereby this Court considering the very similar case has been passed the following order:

"These two writ petitions are directed against the order dated 14.07.2009, on the file of the first respondent, whereby and whereunder, the request made by

the petitioners for promotion to the post of Instructor was rejected indicating that the earlier orders would be applicable only to the respective petitioners in those matters.

2. When these two writ petitions came up for consideration on 17.09.2012, the learned counsel for the petitioners circulated the order dated 23.02.2010 made in W.P.No.848 of 2008 and the Judgment of the Division Bench dated 22.08.2011, in W.A.No.1909 of 2010. According to the learned counsel, the issue has already been settled by this Court and as such the petitioners are also entitled to the benefits of the order in W.P.No.848 of 2008.

3. The matter was adjourned at the request of the learned Government Advocate, so as to enable her to take instructions. When the matter was taken up today, the learned Government Advocate very fairly submitted that the issue involved in these writ petitions are covered by the order passed in W.P.No.848 of 2008, as confirmed by the Judgment of the Division Bench in W.A.No.1909 of 2010.

4. I have carefully perused the order of the learned Single Judge as well as the judgment of the Division Bench in W.A.No.1909 of 2010 and I am of the view that the issues raised by the petitioners are covered by the Judgment of the Division Bench.

5. Accordingly, by following the Judgment of the learned Judge in W.P.No.848 of 2008, as confirmed by the Judgment of the Division Bench in W.A.No.1909 of 2010, the above Writ Petitions are allowed and the impugned order is set aside. No costs. Consequently, connected Miscellaneous Petitions are closed."

5. The perusal of the above Judgments of this Court would make it clear that the Division Bench has categorically held that the promotion given to the earlier set of employees cannot be given to the persons alike the petitioners merely because they have approached the Court at a later point of time. Even otherwise, it is settled proposition of law that right to be considered for promotion is a Fundamental Right and the denial of the same arbitrarily to the petitioners also would be squarely violative of the Constitutional mandate contained in Article 14 and 16 of Constitution of India.

6. Though promotion is an aspect that every employee cannot claim it is a matter of right but however, arbitrarily denying promotion would naturally impinge upon of the morale of an

employee and the State authorities must be conscious to ensure that timely promotion must be made available to all eligible employees.

7. In view of the above said discussion and the judgments referred above, the petitioners are entitled to succeed and accordingly all the writ petitions are liable to be allowed.

8. In the result:

(a) all the writ petitions are allowed and the impugned Letter No.31766/P2/2008-1, dated 14.07.2009, passed by the 1st respondent, is quashed;

(b) the respondents are directed to promote the petitioners as Instructors and pay all service and monetary benefits;

(c) the said exercise shall be done within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary/Commissioner,
Directorate of Technical Education,
Chennai - 25.

2. The Secretary to Government,
Higher Education Department,
Chennai - 9.

+1 cc to M/s.G.Elanchezhiyan Advocate sr 82972

+3 cc to M/s.G.Elanchezhiyan Advocate sr 34324 dt 3/1/2018

WP.Nos.34324 to 34326 of 2012

and

W.P.No.27254 of 2010

mr (co)

aa08/12/2017