

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WRIT PETITION No.44803 of 2016

1. R.Chittibabu
 2. S.Seenuvasan
 3. S.Selvan
 4. G.Ramesh
 5. K.Anandan
- ... Petitioners

vs.

1. State of Tamil Nadu,
rep. by the Secretary to Government,
Higher Education Department,
Secretariat,
Chennai 600 009.
 2. The Director of Technical Education,
Directorate of Technical Education,
Guindy,
Chennai 600 025.
 3. The Additional Director of
Technical Education,
Directorate of Technical Education,
Guindy,
Chennai 600 025.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the 1st respondent to promote the petitioners to the post of Instructor or the post of Lecturer with effect from the date of promotion given to other similarly situated candidates as per G.O.Ms.No.95, Higher Education (C1) Department, dated 26.03.2008, passed in pursuance of the order of the Division Bench in W.A.No.1323 of 2011, dated 02.11.2011 and G.O.(Ms) No.121, Higher Education (C1) Department, dated 01.04.2011 passed in pursuance of the order of this Court in W.P.No.9905 of 2001, dated 10.07.2009 and W.A.No.807 of 2015, dated 19.06.2015 and also G.O.(Ms) No.20, Higher Education Department, dated 01.02.2016 with all monetary and service benefits.

For Petitioners :Mr.R.Singaravelan,
Senior Counsel
for M/s.M.Srividhya

For Respondents :Mr.V.Anandhamoorthy,
Additional Government Pleader

O R D E R

The petitioners are before this Court seeking a direction to the 1st respondent to promote them to the post of either Instructor or Lecturer with effect from the date of promotion given to other similarly situated candidates as per G.O.Ms.No.95, Higher Education (C1) Department, dated 26.03.2008, passed in pursuance of the order of the Division Bench in W.A.No.1323 of 2011, dated 02.11.2011 and G.O.(Ms) No.121, Higher Education (C1) Department, dated 01.04.2011 passed in pursuance of the order of this Court in W.P.No.9905 of 2001, dated 10.07.2009 and W.A.No.807 of 2015, dated 19.06.2015 and also G.O.(Ms) No.20, Higher Education Department, dated 01.02.2016 with all monetary and service benefits.

2. According to the petitioners, they are working in different posts in P.T. Lee C.N. Polytechnic College, Vepery, Chennai. Petitioners 1 to 3 have put in 23 years of service and petitioners 4 and 5 have put in 15 years of service. It is their grievance that after the alleged abolition of the Instructor Post, there is no promotional avenue to them and as a result, there is stagnation in their service. Citing various decisions of the Honourable Supreme Court, more particularly in the case of O.Z.Hussain (Dr.) vs. Union of India, 1990 Supp. SCC 688, the petitioners contend that the respondents ought to have created promotional chances for them, having regard to its constitutional obligation adumbrated in Articles 14 and 16 of the Constitution of India.

3. It is the case of the petitioners that the promotional chances provided for them to the post of Instructor vide G.O.Ms.No.1364, Education Department, dated 16.08.1988 with effect from 23.12.1981 was taken away by G.O.Ms.No.1081, while challenging the order of the Additional Director dated 19.08.1989. The said order was challenged by way of a mandamus in W.P.No.9111 of 1997 and an order was passed by the Single Judge on 10.09.2004 setting aside the order of the Additional Director, Polytechnic Directorate of Technical Education, dated 19.02.1993 sanctioning one temporary post of Instructor for the candidate having qualification of Computer Science and two years previous experience as it was against the interest of the

candidates working as Draughtsman, who were entitled for promotion to the post of Instructor (Civil) and Instructor (Mechanical) on the basis of G.O.Ms.No.1364, dated 16.08.1988.

4. Against the said order passed in the above Writ Petition, Writ Appeals in W.A.Nos.258 and 259 of 2002 were filed by the Government and W.A.No.1039 of 2006 was filed by the Institution, in whose favour, the post of Instructor (Computer Science) was sanctioned and the said Writ Appeals were dismissed on 01.08.2007, confirming the order of the Single Judge.

5. The petitioners categorically stated that the respondents cannot place reliance on G.O.Ms.No.1081, dated 19.08.1989 to deny their promotional chances. In this regard, the petitioners made representations on 08.12.2016 to the respondents. Pending consideration of the same, the petitioners have filed the present Writ Petitions.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. Having regard to the submissions made by the learned counsel on either side and considering the facts and circumstances of the case, this Court directs the respondents to consider the petitioners' collective representation, dated 08.12.2016 on merits and in accordance with law, after giving due notice to the College where the petitioners are working, and pass appropriate orders within a period of three months from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction. No costs. Consequently, connected W.M.P.No.38631 of 2016 is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To:

1. The Secretary to Government,
State of Tamil Nadu,
Higher Education Department,
Secretariat,
Chennai 600 009.

2. The Director of Technical Education,
Directorate of Technical Education,
Guindy,
Chennai 600 025.

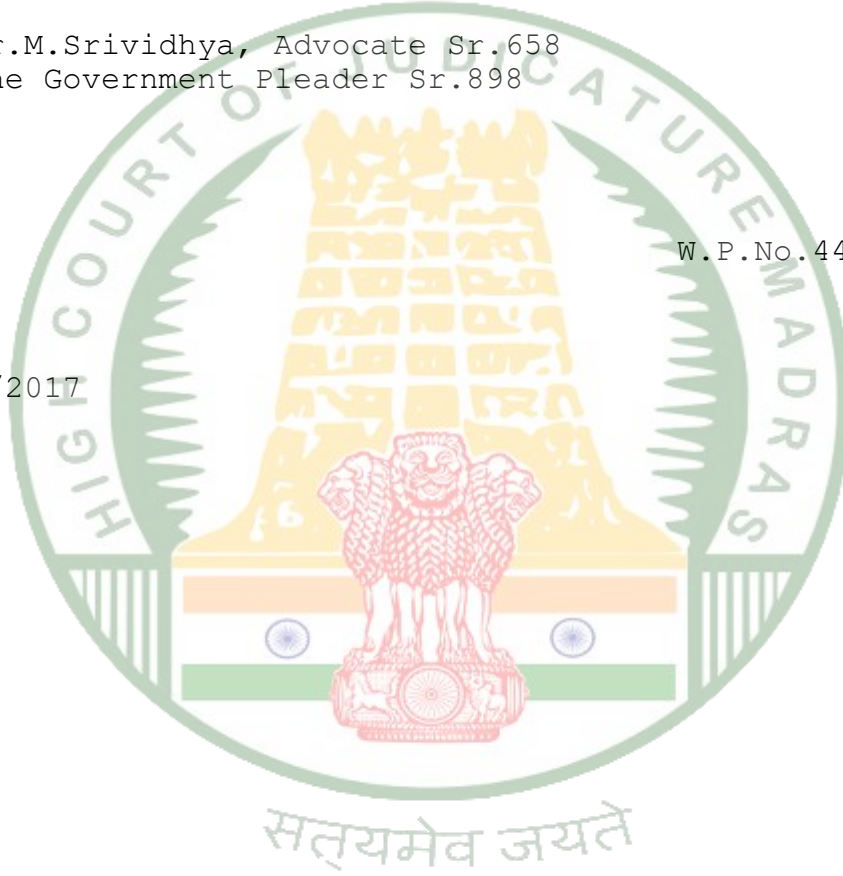
3. The Additional Director of
Technical Education,
Directorate of Technical Education,
Guindy,
Chennai 600 025.

+1cc to Mr.M.Srividhya, Advocate Sr.658

+1cc to the Government Pleader Sr.898

W.P.No.44803 of 2016

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srg 25/01/2017



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