



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A(MD)No.137 of 2017
against WP(MD)No.17011 /2015
and
C.M.P.(MD)No.1371 of 2017

1.V.K.Gopal
2.N.R.Thiagarajan
3.R.R.Jeyanthi

.. Appellants

Vs.

1.The Registrar,
Madurai Kamaraj University,
Madurai-625 021.

2.The Syndicate Committee,
Madurai Kamaraj University,
Madurai-625 021.

3.The Principal Secretary of the Government,
Department of Higher Education,
Government of Tamil Nadu,
Chennai-600 009.

4.K.Sundaramoorthy
5.K.Manokaran
6.K.L.Prabakaran
7.B.Raja
.. Respondents

PRAYER: This Writ Appeal is filed under Clause 15 of Letters Patent Act, against the order passed by Honourable Mr. Justice T.Raja made in W.P.(MD) No.17011 of 2015 dated 21.09.2015.

Prayer in WP(MD). 17011/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for records relating to the Criteria of promotion based on Merit/Marks obtained in the qualifying test at the time of initial appointment through the common appointment order passed by the 1st respondent dated 14.11.2005 made in memo no.Est.1/Admn.6/MKU/2005 and quash the same and consequently for issuance of direction, directing the 1st and 2nd respondent to



recast the seniority of the petitioners based on Date of Birth instead of marks obtained in the qualifying test.

For Appellants

: Mr.Jerin Mathew

For Respondents 1 & 2

: Mr.T.Cibi Chakraborti

JUDGMENT

[JUDGMENT of the Court was made by G.R.SWAMINATHAN, J.]

The unsuccessful writ petitioners have filed this intra court appeal challenging the order dated 21.09.2015 made in W.P.(MD) No.17011 of 2015.

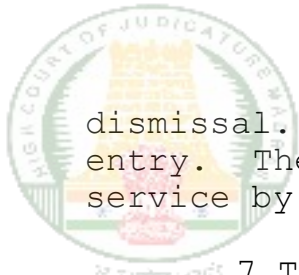
2.The appellants herein were temporarily appointed on daily wages in the Madurai Kamaraj University during the year 1991 -1992 as casual labourers. Eventhough they were qualified, in order to regularise their services, the university had conducted qualifying examination.

3.The appellants came out successful and by order of dated 14.11.2005, they were appointed as clerks in the university. Eventhough all 49 persons, including the appellants, were appointed on the same day, instead of fixing the seniority based on their respective age, the seniority was fixed on the basis of marks secured in the qualifying test.

4.Aggrieved by the same, the present writ petition was filed and direction was sought for recasting the seniority of the appellant based on date of birth instead of the marks obtained in the qualifying test. The learned Judge by order dated 21.07.2015 dismissed the writ petition. The present writ petition has been filed challenging the said order.

5.Heard Mr.Jerin Mathew, learned counsel appearing for the appellants and Mr.T.Cibi Chakraborti, learned counsel appearing for the respondents 1 and 2.

6. The writ petition was filed in the year 2015. The writ petitioners challenged the order dated 14.11.2005, nearly after a lapse of ten years. There is no explanation for this enormous delay of 10 years. On the ground of laches, the writ petition deserves



dismissal. The writ petitioners obviously came through back door entry. The University had done them a favour by regularising their service by conducting a qualifying examination.

7. This Court does not find anything wrong in fixing the seniority of the successful candidate based on the marks secured in the qualifying test. The first respondent/university adopted the right criteria. This writ appeal is liable to be dismissed not only on merits but also on the ground that the writ petition itself was filed belatedly.

8. We find no merit in the writ appeal. It stands dismissed. No costs. Consequently, C.M.P. (MD) No. 1371 of 2017 is closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub-Assistant Registrar

To

1. The Registrar,
Madurai Kamaraj University,
Madurai-625 021.

2. The Syndicate Committee,
Madurai Kamaraj University,
Madurai-625 021.

3. The Principal Secretary of the Government,
Department of Higher Education,
Government of Tamil Nadu,
Chennai-600 009.

+One cc to Mr. M. Jerin Mathew, Advocate, SR.No. 73969

+One cc to Mr. T. Cibi Chakraborty, Advocate, SR.no. 74096

vsg/rmi
RL/6C/3P/SKN/RSK/SAR1/12/12/2017

W.A (MD) No. 137 of 2017
and
C.M.P. (MD) No. 1371 of 2017