

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.2858 of 2018
and CMP No. 23751 of 2018

1. The Government of Tamilnadu,
Rep.by Secretary,
Higher Education Department,
Fort St. George,
Chennai - 600 009.

2. Directorate of Technical Education,
Rep.by Commissioner,
Sardar Patel Road,
Guindy, Chennai - 600 025.

.... Appellants /1 to 3 Respondent

vs.

1. Dr.A.Annadurai,

2. All India Council of Technical Institution,
Rep.by Member Secretary,
Indira Gandhi Sport Complex,
I.P.Estate, New Delhi - 110 002.

3. PSG College of Technology,
Rep.by Principal,
Peelamedu,
Coimbatore - 641 004.

... Respondents/Petitioner 2 to 4 Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the Order dated 10.07.2017 made in W.P.No.30292 of 2013 filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to impugned letter No.7633/194/2012 dated 01.07.2013 passed by the 3rd respondent and quash the same as being illegal arbitrary and unconstitutional and consequently direct the 3rd and 4th respondents to grant all the service benefits to the petitioner by including the temporary services

put by the petitioner from 25.07.1994 to 01.05.1997 which was left uncounted for the sanction of career advance benefits to the petitioner. Further, to direct the 3rd and 4th respondents to sanction lecturer (Senior Grade) from 02.07.1999 Lecturer (Selection Grade) from 25.07.2004 and Associate Professor from 25.07.2007 on the basis of the Government Orders of T.N.AICTE as well as UGC Guidelines mentioned supra along with all service benefits including seniority and monetary benefits with interest at 12% and award costs.

For Appellants : Mr.C.Munusamy
Spl. Govt. Pleader

J U D G E M E N T
(Order of the Court was delivered by SUBRAMONIUM PRASAD, J)

Challenging the order dated 10.07.2017, passed in W.P.No.30292 of 2013, whereby a learned single judge has quashed the order dated 01.07.2013, passed by the Secretary to Government, Higher Education Department, Chennai (1st appellant herein) which denied the benefit of the services rendered by the petitioner as Lecturer from 25.07.1994 to 01.05.1997, on the ground that he was in temporary service during that time and that therefore the said period cannot be taken into account for career advancement benefits, the appellants have filed the instant writ appeal.

2. The writ petitioner / 1st respondent was appointed as Lecturer on 25.07.1994. The educational qualifications for the post of Lecturer (Non Engineering) is as under.

Class : V
Category : 4
Post : Lecturers in Non-Engineering
Subjects in Engineering
Colleges
Method of Appointment: Direct Recruitment and
recruitment by transfer

Qualifications: (i) A first or second class Master's Degree by examination or by research in the concerned subjects, obtained after securing not less than fifty per cent of Marks in the aggregate in the University Examination; and

(ii) Experience for a period of not less than three years in teaching the concerned subject in a position not below the rank of an Associate Lecturer in an Engineering College or of equivalent grades, that is posts with comparable status and pay in other

Institutions.

Provided that the stipulation of fifty per cent of marks in the Master's Degree examination will be relaxed in the case of persons already holding appointments in the Tamil Nadu Educational Subordinate Service as on 24th September 1973.

Explanation I: The selection shall be made in the following order, namely

- (i) First Class Master's Degree holders
- (ii) Second Class Master's Degree holders
- (iii) Master's Degree holders by research

Explanation II: If Universities do not award classes in respect of the Master's Degree obtained by research, the possession of that degree shall be deemed as the required qualification.

Explanation III: The teaching experience prescribed in clause (ii) shall be after obtaining the Master's Degree.

3. When the writ petitioner/1st respondent requested for counting of his services as Lecturer, for the purpose of career advancement benefits and fixation of pay, it was denied on the ground that the period from 25.07.1994 to 01.05.1997 was temporary service and it cannot be reckoned for the purpose of giving benefits for the purpose of carrier advancement. The writ petitioner filed W.P.No.30292 of 2013. A learned Single Judge, allowed the writ petition by the judgment impugned herein.

4. Heard the learned counsel for the appellant.

5. The learned counsel for the appellant/State would argue that the writ petitioner / 1st respondent did not have three years teaching experience in the concerned subject and therefore that period could not be taken for upgradation purpose. This stand is entirely different from the stand taken before the learned Single Judge.

6. Before the learned Single Judge, what was argued was that, the writ petitioner/ 1st respondent was initially appointed only on temporary basis and that he was appointed on regular basis only on 02.05.1997 and therefore this period cannot be taken into account. It was further argued that as per G.O.Ms.No.1080 Education (J1) Department, dated 19.08.1989, the writ petitioner / 1st respondent did not have the qualification of First Class Masters Degree. The learned Single Judge rejected the said contention stating that G.O.Ms.No.1080 dated 19.08.1989, came into effect only from 02.05.1997 and it would not affect the appointment of the writ petitioner.

7. The writ petitioner/1st respondent has been directly appointed as Lecturer. It cannot now be contended that he did not have the required teaching experience and therefore, his appointment on 25.07.1994 cannot be taken into account. As rightly pointed out by the learned Single Judge there is nothing called as temporary service in the rules or regulations or in the government orders. The writ petitioner / 1st respondent was directly appointed on 25.07.1994 and therefore, the entire period from 25.07.1994 has to be reckoned for carrier advancement. There is no merit in the contentions of the appellants. The order of the learned Single Judge does not warrant any interference. Writ Appeal is dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ars/gsp

To

1. The Secretary,
Government of Tamilnadu,
Higher Education Department,
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2. The Commissioner,
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3. The Member Secretary,
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KK(CO)
GN(11/02/2019)

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