

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. Nos.24651 & 24652 of 2017

P.Tamizh SelvamPetitioner in W.P.No.24651 of 2017

A.PichumaniPetitioner in W.P.No.24652 of 2017

/Vs/

1.The State of Tamilnadu

Rep by its Secretary to Government
Higher Education Department,
Secretariat
Chennai-9.

2.The Commissioner/Director of

Technical Education,
O/O.The Directorate of Technical Education
Guindy,
Chennai-25

...Respondents in both W.Ps

C O M M O N P R A Y E R :

WRIT PETITIONS under Article 226 of the Constitution in the nature of Mandamus directing the respondents to promote the petitioners as Instructor from the date of acquiring qualification with effect from 1985, as per the G.O.Ms.No.1364, Education Department, dated 16.08.1988 and give consequential promotion as Associate Lecturer and Senior Lecturer, as was given to the petitioners' juniors based on the orders passed by this Hon'ble Court in W.A.No.261 of 2008 dated 08.04.2008 and also G.O.Ms.No.89, Higher Education (12) Department, dated 31.03.2009 and W.P.No.2821 of 2007 dated 15.12.2009 and in Writ Appeal No.114 of 2011 dated 20.10.2011 and also W.P.No.8715 of 2006, dated 19.12.2009 and in W.A.No.74 of 2011 dated 04.11.2013 and also G.O.Ms.No.86 & 88, Higher Education (C2) Department, dated 03.03.2016 and fix the petitioners pay on par with juniors and pay arrears.

For Petitioner : Mr.G.Elanchezhiyan
For Respondents : Mr.V. Kadhirvelu
Special Government Pleader

O R D E R

Heard Mr.G.Elanchezhiyan, learned counsel for the petitioners and Mr.V. Kadhirvelu, Special Government Pleader for the respondents.

2. The writ petitioners prays for the issuance of a mandamus promoting them as an Instructor in line with G.O.Ms.No.1364, Education Department dated 16.08.1988, consequential promotion as Associate Lecturer and Senior Lecturer with all attendant benefits. Learned counsels are in agreement that the identical issue, as raised in the present writ petitions, has been dealt with by this Court in earlier matters. They cite a decision of a learned Single Judge of this Court in W.P.No 24070 of 2010 dated 01.11.2016, where in this Court has held as follows:

10.The following factors are also not in dispute:

When some of the persons, who are similarly placed like that of the petitioner and junior in the service, had already approached this Court raised the issue and got benefits and this Court also regarding the same issue ultimately, passed the order in W.P.No.4660 of 2005 dated 30.10.2006 directing the respondents to give promotion to the petitioners therein by applying the rule from the date on which, those employers acquired the qualification and completion of two years of service. The said order was appealed by the respondents in W.A.No.261 of 2008 and the Division Bench of this Court, after considering rival claims, by order dated 08.04.2008 confirmed the order of the learned Judge and dismissed the Writ Appeal. After three years, the Government issued G.O.Ms.89 Higher Education (I 2) Department dated 31.03.2009 whereby, the orders of this Court referred to above have been implemented and at least for four persons, who were the petitioners in W.P.Nos.4660 of 2005 had been given promotion with retrospective effect namely, from the date of their actual eligibility, by acquiring qualification and

completion of two years of service as per the amended rules.

11.As submitted by the learned counsel for the petitioner though orders have been passed by this Court on the same issue and in similar set of facts and those orders were implemented by the respondents in G.O.Ms.No.60 Higher Education (C2) Department dated 30.04.2012, G.O.Ms.No.126 Higher Education (C2) Department dated 30.07.2014 and G.O.Ms.No.56 Higher Education Department dated 25.03.2015, the respondents have not considered the case of the petitioner.

12.Though series of orders have been passed by this Court and the same have been accepted and implemented by the respondents, there is no justifiable reason for the respondents to deny the benefits sought for by the petitioner and to extend the same to the petitioner by stating that all those individuals got benefits only pursuant to the orders of this Court.

18. Considering the fact that the petitioner has to be given promotion and he has retired from service, the respondents are hereby directed to give promotion to the petitioner from the date on which he completed two years of service i.e. from 17.11.1982 as Instructor and also his further promotion till Head of Department, though he attained superannuation, with retrospective effect. The respondents are further directed to see the pay disparity if any and pay dues can be calculated and disbursed to the petitioner. This benefit can be extended to retirement and pensionary benefits also. The needful shall be done by the respondents within a period of four months from the date of receipt of a copy of this order.

3. In the light of the admitted position that the aforesaid conclusions are equally applicable to the facts and circumstances of the present case, these writ petitions are allowed. The mandamus sought for is granted directing the respondents to promote the petitioners as Instructor from the date of his possessing qualifications as per G.O.M.S.No.1364, Education Department dated 16.08.2008, with all consequential promotions and benefits as were granted to other juniors of the

petitioners, within a period of six(6) weeks from the date of receipt of a copy of this order. These writ petitions are allowed in the aforesaid terms. No costs.

ska

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The State of Tamilnadu
Rep by its Secretary to Government
Higher Education Department,
Secretariat
Chennai-9.
2. The Commissioner/Director of
Technical Education,
O/O.The Directorate of Technical Education
Guindy,
Chennai-25

+1cc to Mr.G.Elanchezhian, Advocate, SR.No.30869
+1cc to the Govt.Pleader, Vide Sr.No.31596

Kak(28/06/2019)

W.P. Nos.24651 & 24652 of 2017

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