



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.11.2019
CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

WEB COPY

W.P.(MD)No.592 of 2011

P.Joseph Corera

... Petitioner

vs.

1.Government of Tamil Nadu,
represented by its Secretary,
Department of Higher Education,
Fort St.George, Chennai - 600 009.

2.The Director of Collegiate Education,
College Road, Nungambakkam,
Chennai - 600 006.

3.The Joint Director of Collegiate Education,
Tirunelveli Region.

4.St.Mary's College,
represented by its Secretary,
Tuticorin - 628 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records in Lr.No.2985/D1/2007-11, dated 30.07.2010, Higher Education (D1) Department, the first respondent, to give monetary benefit for the post of Mechanic to the petitioner by applying G.O.Ms.No.186, Higher Education Department, dated 07.05.2004.

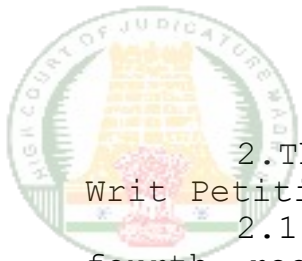
For Petitioner : Mr.S.Kumar

For R1 to R3 : Mr.D.Muruganandam
Additional Government Pleader

For R4 : Mr.P.C.Saravanan

O R D E R

This Writ petition is filed for issuing a Writ of Certiorarified Mandamus, to quash the impugned order passed by the first respondent, dated 30.07.2010 and consequently, to direct the first respondent to give monetary benefits to the petitioner for the post of Mechanic.



2.The brief facts that are required for disposing of this Writ Petition are as follows:

2.1. The petitioner was appointed as Office Assistant in the fourth respondent College on 01.08.1973. Subsequently, he was promoted as Mechanic by the fourth respondent by proceedings, dated 30.12.1985. The petitioner also retired from service on 31.03.2004 as Mechanic. It is submitted that the post of Mechanic is a non-teaching post and that the Government, vide G.O.Ms.No.1704, dated 21.12.1990, prescribed qualification as SSLC pass. By the impugned order, the petitioner, who was promoted to the post of Mechanic with effect from 30.12.1985, was held to be a person, who is not entitled to any monetary benefit, as he has failed in SSLC. It is admitted that the qualification in the post of Mechanic was modified only in the year 1990 and that therefore, the impugned order making the petitioner ineligible to enjoy the monetary benefits and promotion given to the petitioner in 1985, is improper. Any recruitment rule having the effect of taking away a benefit earned or accrued to an employee is violative of rights guaranteed under Article 14 of Constitution of India.

3.The learned Counsel for the petitioner submitted that the reasons given by the first respondent based on G.O.Ms.No.1704, dated 21.12.1990 is erroneous, as the petitioner was promoted in the post of Mechanic long prior to 1990, ie., on 30.12.1985. The Government Order, which came into effect on 21.12.1990 cannot apply retrospectively. Having regard to the admitted fact that the petitioner, who was promoted to the post of Mechanic by the proceedings of the fourth respondent, dated 30.12.1985, is entitled to the monetary benefit and the same cannot be denied subsequently by referring to a subsequent Government Order, vide G.O.Ms.No.1704, dated 21.12.1990, prescribing additional qualification for the post of Mechanic. Hence, the order impugned in the Writ Petition is unsustainable.

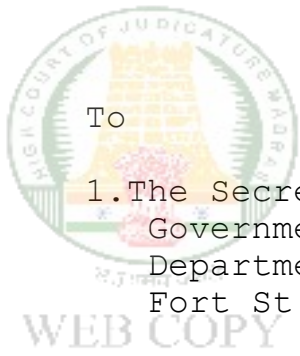
4.Hence, this Writ Petition is allowed and the impugned order passed by the first respondent, dated 30.07.2010, is quashed. The respondents are directed to disburse the monetary benefits to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Secretary,
Government of Tamil Nadu,
Department of Higher Education,
Fort St.George, Chennai - 600 009.

2.The Director of Collegiate Education,
College Road, Nungambakkam,
Chennai - 600 006.

3.The Joint Director of Collegiate Education,
Tirunelveli Region.

+1 CC to M/s.P.C.SARAVANAN, Advocate (SR-100605[F] dated 22/11/2019

+1 CC to M/s.S.KUMAR, Advocate (SR-100686[F] dated 22/11/2019)

+1 CC to M/s.SPL GP (SR-101148[F] dated 25/11/2019)

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JMN(13.12.2019) 3P : 7C