



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P.(MD)Nos.12111 and 12112 of 2011

and

M.P.(MD)Nos.1, 1, 2 and 2 of 2011

M.Murugan  
C.Dhanushkody

... Petitioner in W.P.(MD)No.12111 of 2011  
... Petitioner in W.P.(MD)No.12112 of 2011

-Vs-

- 1.The Principal,  
Government Engineering College,  
Tirunelveli.
- 2.The Director,  
Directorate of Technical Education,  
Guindy, Chennai-32.
- 3.The Commissioner,  
Directorate of Technical Education,  
Chennai-25.
- 4.The Secretary to Government,  
Higher Education (C2) Department,  
Fort St.George,  
Chennai-600 009.

..Respondents in both petitions

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the fourth respondent in G.O.Ms.No.357, Higher Education (C2) Department, dated 01.10.2009 and to quash the same.

For Petitioner : Mr.Sidharthan

For Respondents : Mr.S.Dhayalan  
Government Advocate  
(in both cases)

### COMMON ORDER

The order of rejection rejecting the claim of the writ petitioners to appoint him to the post of Lab Assistant in G.O.Ms.No.357, Higher Education (C2) Department, dated 01.10.2009 is sought to be quashed in the present writ petitions.

2. The writ petitioners were appointed as Lab Assistant in Government College of Engineering on 23.01.1984 and 20.03.1986, respectively. The qualification as per the petitioners for



appointment to the said post is pass in 8<sup>th</sup> standard and practical experience not less than two years in workshop or laboratory. The claim of the writ petitioners is that the writ petitioners possess ITI certificate and therefore two years of practical experience should not be instigated upon. In other words it is stated that ITI certificate must be equated with the two years experience enabling the writ petitioners to get regularization in the post of Lab Assistant. In this regard, the writ petitioners state that one S.Sabapathy filed O.A.No.5895 of 1992 before the Tamil Nadu Administrative Tribunal and the tribunal considered the case and ITI certificate was considered as qualification, which can be equated with experience. At the out set it is the contention of the petitioner that the similarly placed persons were considered and therefore, writ petitioners are also to be granted conferment of service in the post of Lab Assistant.

3. The learned Government Advocate opposed the contentions by stating that the case of the petitioners is the clear case, where admittedly they did not possess requisite educational qualification as well as experience. The petitioners were appointed as Lab Assistant in the first respondent College on 23.01.1984 and 20.03.1986, respectively. The qualifications prescribed in the adhoc rules for appointment to the post of Lab Assistant are as follows:-

- 1) pass in VIII Standard
- 2) 2 years experience any workshop (or)  
Lab., related to the post

4. The petitioners' services were regularized as per G.O.Ms.No.357, Higher Education (C2) Department, dated 01.10.2009. In the said G.O., it has been categorically stated that the petitioners has only one experience during the date of appointment and the petitioners have undergone National Apprenticeship Training and hence the rule relating to experience has been relaxed in favour of the petitioners and their services were regularised on 01.07.1986 and 11.01.1987, respectively.

5. The tribunal in O.A.No.5895 of 1992 directed that the period of Apprenticeship Training can be treated as experience period. The petitioners have only one year Apprenticeship Training before appointment as Lab Assistant. The minimum qualification was not at all modified by the Government based on the said order. The petitioners have only one year Apprenticeship Training experience as per Directorate of Technical Education's Memo No.49462/A3/67 dated 02.05.1973. In Directorate of Technical Education's Memo No.49462/A3/67 dated 02.05.1973, it is categorically stated that ITI training period may not be equated to practical experience. Thus, grant of retrospective regularisation from the initial date of appointment is rejected by the competent authority. However, the benefit of regularisation was granted to the petitioners by the Government by relaxing the relevant rule on 01.07.1986 and 11.01.1987, respectively.



6. The petitioners' claim to regularise their services from the date of initial appointment cannot be granted, since on the date of appointment the writ petitioners were not qualified and the benefit of regularisation, which was granted with effect from 01.07.1986 and 11.01.1987, respectively, has been granted by way of concession by the Government and by relaxing the relevant rules on record and based on experience. Once the concession has already been given to the petitioners for the purpose of regularising their services, further concession is undoubtedly impermissible. The regularisation and permanent absorption granted itself is a concession.

7. This being the factum now the writ petitioners cannot claim retrospective regularisation with effect from the date of initial appointment i.e., on 23.01.1984 and 20.03.1986, respectively, in view of the fact that the writ petitioners were not qualified for appointment to the post of Lab Assistant on the date of their initial appointment. Therefore, the very claim sought in these writ petitions for regularisation from the date of their initial appointment cannot be granted and these writ petitions are devoid of merits. Accordingly, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar(CS )

To

- 1.The Principal,  
Government Engineering College,  
Tirunelveli.
- 2.The Director,  
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