

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.11.2020

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.10808 of 2013

Dr.C.Subramanian

... Petitioner

vs.

1.Annamalai University,
Rep. By its Registrar,
Annamalai Nagar 608 002.
Cuddalore District

2.Dr.D.Devanathan
Associate Professor,
Political Science and Public Admn. Wing
DDE, Annamalai University,
Annamalai Nagar- 608 062.

3.Dr.P.Sakthivel,
Associate Professor, and Head I/C.
Political Science and Public Admn. Works,
DDE, Annamalai University,
Annamalai Nagar- 608 062.
Cuddalore District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the first respondent herein in PIO/368/2012 dated 07.01.2013 and NO.C3/2007 dated 18.12.2007 issued by the first respondent herein and quash the same and consequently to direct the first respondent herein to place the petitioner above the second and the third respondents herein in the category of Reader to grant him all consequential benefits.

For Petitioner : Mr.M.Ravi

For Respondent(s) :Mr.V.R.Kamalanathan for R1
:Mr.Stalin Abhimanyu, G.A., for R2
:M/S.L.Chandrakumar for R3

ORDER

This writ petition has been filed by the petitioner, to call for the records on the file of the first respondent herein in PIO/368/2012 dated 07.01.2013 and NO.C3/2007 dated 18.12.2007 issued by the first respondent herein and quash the same and consequently to direct the first respondent herein to place the petitioner above the second and the third respondents herein in the category of Reader to grant him all consequential benefits.

2.The brief facts of the case is that the petitioner was temporarily appointed as Lecturer in Political Science in the Public Administration Wing of the Directorate of Distance Education, Annamalai university, in and by appointment order dated 23.11.1999 issued by the first respondent herein and he joined duty in the said post on 29.11.1999. Subsequently he was regularly appointed in the said post in by issuance of order dated 04.02.2000 and after completion of probation, his temporary services during the period from 29.11.1999 to 15.02.2000 in the post of Lecturer in Political Science, was counted as qualifying service for the purpose of service benefits and thereafter he was placed as Lecturer (senior scale) with effect from 29.11.2003.

2.1.It is the averment made by the petitioner that, with reference to Notification NO.1/2006(C) dated 30.01.2006, issued by the Registrar, Annamalai University, calling for applications for the posts of Professors, Readers and Lecturers, he applied for the post of "Reader in Political Science" by direct recruitment and he was interviewed on 16.03.2006 by the Selection Board. Subsequently he was appointed as Reader in Political Science with effect from 2006 and he was confirmed in the Reader post with effect from 1.4.2008 and now he is serving as Associate Professor. सत्यमेव जयते

2.2.The grievance of the petitioner is that after the appointment as Reader by Direct Recruitment, he was given to understand that the 2nd respondent was placed as his senior in the cadre of Reader. Upon coming to know of the same, he had immediately made representation dated 01.11.2007 to the first respondent herein. The first respondent in his proceedings dated 18.12.2007 had informed him that 2nd respondent is senior to him as per the existing rules. As the statement was vague, without even citing any specific rule provision, he also made oral enquiries and at that point of time, he was orally informed that the 2nd and 3rd respondents are seniors to him by age and

therefore they were accordingly placed in seniority above him as per the rules. However during the year 2012, after knowing the fact that the 2nd and 3rd respondents are juniors to the petitioner, he made representations dated 06.07.2012 and 03.09.2012 with regard to fixation of his inter-se seniority requesting the first respondent to place him above respondents 2 and 3 and as there was no response to the same, he had invoked the provisions of Right to Information Act and vide his representation dated 18.12.2012, sought for specific information with regard to his inter-se seniority. In response to the same the 1st respondent in and by his proceedings dated 07.01.2013 had informed him that the seniority of the 2nd and 3rd respondents herein and himself has been fixed according to G.O.Ms.806 Personnel & Administrative Reforms Department, dated 13.07.1998 and G.O.Ms.No.523, Personnel & Administrative Reforms Department dated 04.06.1982 and that the present seniority position of the petitioner among his colleagues/2nd and 3rd respondent herein, has been fixed based on the date of their first appointment, meaning the appointment to the post of Lecturer. After knowing the illegal stand taken by the first respondent on the basis of which the wrong fixation of seniority has been done, this present writ petition was filed by the petitioner with the above said prayer.

3. The learned counsel appearing for the petitioner submitted that G.O.Ms.No.806, Personnel & Administrative Reforms Department, dated 13.07.1998 and G.O.Ms.No.523, Personnel & Administrative Reforms Department dated 04.06.1982, are relevant and applicable only to the case of promotion to the post of Reader, by virtue of career Advancement Scheme. However in this case, all the three of them were not appointed on promotion and hence the above mentioned Government Orders are totally inapplicable insofar as fixation of seniority. It is further submitted that since he was appointed as Lecturer by way of recruitment in 2006, the seniority has to be considered only in the Reader post in the year 2006. However unfortunately the impugned order was passed, which is contrary to the stand taken by very same University in WP.NO.14940 of 2015 and, therefore, in such a backdrop, this Court may permit the petitioner to make a representation to the first respondent within a stipulated time and direction may be issued to the 1st respondent to consider the same and pass appropriate orders on the basis of the rules and regulations in force.

4. Learned counsel appearing for the 1st respondent submitted that as per the original seniority all the persons were given promotion till the year 2019. Therefore, it is submitted that without disturbing the seniority prevailing as on

date, this Court may direct the respondents to pass orders on the representation filed by the petitioner in accordance with UGC Regulations.

5. Learned counsel appearing for the private respondent submitted that as per the original seniority, subsequent promotion was given and if this Court allows this petition, definitely the existing seniority would be disturbed. Hence he prays this Court may give liberty to the private respondents to work out their remedy in the manner known to law, in case the existing seniority is disturbed.

6. This Court heard the learned counsel for the petitioner and the learned counsel appearing for official and private respondents and perused the records carefully.

7. The facts in issue are not in dispute. The only question that arises in the present case relates to fixation of seniority. Admittedly, where persons are appointed by more than one method of recruitment or deemed to have been appointed to the service, class, category or grade on the same day, their inter se seniority, shall be decided with reference to their age. The petitioner's date of birth is 04.06.1967 while 2nd and 3rd respondents date of birth is 20.07.1971 and 23.12.1973 respectively. By virtue of the third proviso to Rule 35(aa), the petitioner's seniority has to be fixed above those two persons. G.O.Ms.No.112, Higher Education (H1) Department 24.03.1999 speaks about promotion under Career Advancement Scheme to the post of Reader and Direct Recruitment to the post of Reader. It is pertinent to point out here that the aforesaid three individuals have not completed 5 years of service in the cadre of Lecturer (Senior Scale) on the crucial date. It is also rightly pointed out by the learned counsel for the petitioner on an earlier occasion the first respondent has filed a counter in WP.No.14940/2015, stating that the petitioner is senior to 2nd respondent, however in this case, they have taken a contra stand stating that the petitioner is junior to 2nd respondent.

8. Be that as it may. In view of the limited request made by the learned counsel for the petitioner, without going into the merits of the issue, this Court permits the petitioner to make a fresh representation with all relevant particulars before the 1st respondent within a period of 2 weeks from the date of receipt of copy of this order and on receipt of the said representation, the 1st respondent, after affording opportunity

of hearing to the petitioner as well as respondents 2 to 3, consider the representation of the petitioner and pass orders in accordance with UGC regulations and other relevant rules within a period of 12 weeks thereafter.

9. With the above direction, this Writ petition is disposed of. There shall be no order as to costs. However, liberty is also granted to the private respondents to work out their remedy in the manner known to law.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

jrs
To

The Registrar,
Annamalai University,
Annamalai Nagar 608 002.
Cuddalore District.

+1cc to Mr.L.Chandrakumar, Advocate Sr.36690
+1cc to Mr.V.R.Kamalanathan, Advocate Sr.37133

W.P.No.10808 of 2013

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