

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.13062 of 2014

A.B.Manjubhasini

... Petitioner

vs.

1. Union of India,
rep. By Government of Puducherry,
Chief Secretary,
Puducherry - 605 001.
 2. Government of Puducherry,
represented by its Secretary,
Education Department,
Puducherry - 605 001.
 3. The Principal,
Pondicherry Engineering College (P.E.C.),
Kalapet,
Puducherry - 605 014.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the Respondents to upgrade of the post of Senior Instructor to the cadre of Lecturer and further to give all backwages from the date on which the Petitioner became eligible.

For Petitioner : Mr.M.Ravindran, Senior Counsel
for D.Sreenivasan

For Respondents: Ms.G.Sudha,
for Mrs.N.Mala.
Government Pleader

ORDER

Petitioner has come up with this Writ Petition seeking a direction to the Respondents to upgrade the post of Senior Instructor to the cadre of Lecturer and to give her all backwages from the date on which, she became eligible.

2. According to the Petitioner, she was appointed as Senior Instructor in the Department of Chemistry in the 3rd Respondent/College, Puducherry on 21.08.1986. The qualification

prescribed for a Senior Instructor for promotion to the post of Lecturer in an Engineering College was M.Sc. First Class and two years teaching experience. It is stated by the Petitioner that, she passed M.Sc. Chemistry in First class with two years of teaching experience in an Engineering College. Later, she pursued M.Ed. and acquired Ph.D. in the year 1998 and published Research papers in reputed National and International Journals.

3. It is stated by the Petitioner that, as per the communication of Government of India, Ministry of Education (Technical Division) vide Letter No.F-9-67/68 T.S., dated 25.07.1968, the qualification for the post of Senior Instructor was stipulated and it was inter alia stated that, the cadre of Senior Instructor has been treated on par with Assistant Lecturer and classified on the teaching side. Further, as per G.O.Ms.No.124 issued by the Government of Tamil Nadu, Education Department, dated 02.03.1980, Post-Graduate Tutors/Demonstrators/Instructors/Teaching either Engineering or non-Engineering subjects in Engineering Colleges/Polytechnics (both Government and Government-aided), who have completed three years of service as Tutors/Demonstrators/Instructors shall be upgraded as Assistant Lecturers.

4. Further, the Government of Tamil Nadu, Technical Education, Education Department in G.O.Ms.No.1080, dated 19.08.1989 has ordered revision of pay scales with effect from 01.01.1986 on the basis of the recommendations from the All India Council for Technical Education for Tutors and Demonstrators, who are not governed by AICTE and that, they can move up on promotion as Lecturer after acquiring the qualification required for the post of Lecturer by AICTE. Thus, according to the Petitioner, cadres of Senior Instructors/Assistant Lecturers/Associate Lecturers/Demonstrators were abolished and merged with the category of Lecturers (Ordinary Grade).

5. The grievance of the Petitioner is that, when all the Engineering Colleges and Polytechnic Colleges have promoted Senior Instructors as Lecturers, the 3rd Respondent/College alone has kept her without any promotion for 27 years. Hence, in view of the said Government Order, the Petitioner made representations to the 3rd Respondent/College to upgrade or promote her as Lecturer. As no orders were passed on her representations, the Petitioner has come up with this Writ Petition.

6. Learned counsel for the Petitioner submitted that, though the Petitioner was appointed as Senior Instructor in the 3rd Respondent/College in the year 1986, due to lack of promotional avenues, she had to retire in the same post. Learned counsel pointed out that, though all the Engineering Colleges and Polytechnic Institutions have abolished the post of Senior Instructors/Tutors/Demonstrators and upgraded the post as

Lecturers (Ordinary Grade), the 3rd Respondent/College alone has not taken any steps to abolish the post of Senior Instructor.

7. Learned counsel appearing for the 3rd Respondent with reference to the counter Affidavit filed by the 3rd Respondent submitted that, though the Petitioner is eligible for the post of Lecturer by educational qualification and service, there is no provision for promotion to the post of Lecturer in the 3rd Respondent/College as per the Recruitment Rules.

8. Heard the learned counsel on either side and perused the material documents available on record.

9. Though the Petitioner is eligible to be promoted to the post of Lecturer, in view of lack of promotional avenues in the 3rd Respondent/ College, she was not granted promotion. In the counter Affidavit by the 3rd Respondent, it is stated that, as per Recruitment Rules, appointment to the Teaching Posts viz. Assistant Professor, Associate Professor and Professor is by direct recruitment through open advertisement and hence, a Senior Instructor is not eligible for promotion to the post of Lecturer in the 3rd Respondent/College. Hence, this Court cannot interfere with the policy decision of the 3rd Respondent/College and invoke discretionary jurisdiction.

10. In view of the foregoing, this Writ Petition stands dismissed as devoid of merits. However, the Petitioner is granted liberty to file a fresh Writ Petition with appropriate prayer, by impleading necessary parties. No costs. Consequently, connected W.M.P.No.23889 of 2019 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

1. The Chief Secretary,
Union of India,
Government of Puducherry,
Puducherry - 605 001.
2. The Secretary,
Government of Puducherry,
Education Department,
Puducherry - 605 001.
3. The Principal,
Pondicherry Engineering College (P.E.C.),
Kalapet,
Puducherry - 605 014.

+1cc to Mr.D.Srinivasan, Advocate, S.R.No.36354

+1cc to M/s.N.Mala, Advocate, S.R.No.36649

W.P.No.13062 of 2014

CP (CO)
RV (08/12/2020)



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