



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.14009 of 2012

and

M.P(MD)No.1 of 2012

E.Subramanian

... Petitioner

vs.

1.The Commissioner,
Directorate of Technical Education,
Guindy, Chennai-600 025.

2.The Principal,
Government College of Engineering,
Tirunelveli-627 007,
Tirunelveli District.

3.Mr.I.Arumugam,
Artisan Grade-II,
Government College of Engineering,
Tirunelveli-627 007,
Tirunelveli District.

4.Mr.S.Thangadurai,
Artisan Grade-II,
Government College of Engineering,
Tirunelveli-627 007,
Tirunelveli District.

5.Mr.M.Isakiyappan,
Artisan Grade-II,
Government College of Engineering,
Tirunelveli-627 007,
Tirunelveli District.

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Revised Seniority Panel in Proceedings No.1810/E3/99 dated 31.07.2002 and the recent communication in Letter No.39759/Aa5/2011 dated 21.07.2012 on the file of the Respondent No.1 forwarded by the Respondent No.2 vide the Communication in No.3996/E3/2012 dated



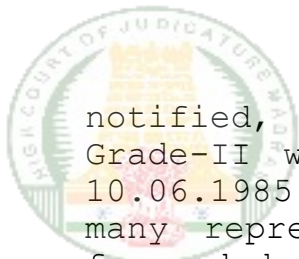
08.08.2012 and quash the same as illegal and consequently to direct the Respondents to re-fix the seniority of the petitioner above the Respondents Nos.3-5 in the cadre of Artisan Grade-II with effect from 01.10.1984.

For Petitioner : Mr.T.Lajapathi Roy
For R1 & R2 : Mr.C.Ramar
Additional Government Pleader
For R3 to R5 : No appearance

ORDER

This Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Revised Seniority Panel in Proceedings No.1810/E3/99 dated 31.07.2002 and the recent communication in Letter No.39759/Aa5/2011 dated 21.07.2012 on the file of the Respondent No.1 forwarded by the Respondent No.2 vide the Communication in No.3996/E3/2012 dated 08.08.2012 and quash the same as illegal and consequently to direct the Respondents to re-fix the seniority of the petitioner above the Respondents Nos.3-5 in the cadre of Artisan Grade-II with effect from 01.10.1984.

2. The case of the petitioner is that the on 30.12.1983 he was appointed as the Workshop Artisan at Government College of Engineering, Tirunelveli and the respondents 3 & 5 were appointed on 24.01.1984 as Cleaners and the fourth respondent was appointed on 24.01.1984 as Lab-Assistant. Exercising the powers conferred by the Proviso to Article 309 of the Constitution of India, Tamil Nadu Revised Scales of Pay Rules, 1985 was made and the post of Artisan and the post of Workshop Artisan were directed to be re-designated as Artisan Grade-II with a uniform pay scale of 555-970 and thereafter by way of G.O.Ms.No.739, Finance (CMPC) Department, dated 18.12.1996 the pay scale of the Artisan and Workshop Artisan re-designated as Artisan Grade-II was revised as 610-1075. As Tamil Nadu Revised Scales of Pay Rules, 1985 came into force from 01.10.1984, the petitioner was re-designated as Artisan Grade-II with effect from 01.10.1984. Accordingly, a seniority in the cadre of Artisan Grade-II was drawn on 31.08.1999 and in the said list, he was at serial No.3 and the respondents Nos.3 to 5 were at serial No.11 to 13 respectively. The respondents 3 to 5 objected that they should be above the petitioner in the seniority list and accordingly the first respondent passed the impugned seniority panel in proceedings No.1810/E3/99, dated 31.07.2002 revising the seniority list by placing the respondents 3 to 5 above him. Many employees in the cadre of Artisan Grade-II made several complaints and addressed their grievances pertaining to the drawal of the seniority list. The second respondent passed an order in Memorandum No.2966/E3/2010 dated 08.06.2011 stating that as per G.O.ms.No.555, dated 10.06.1985 by which Tamil Nadu Revised Scales of Pay Rules, 1985 came to be

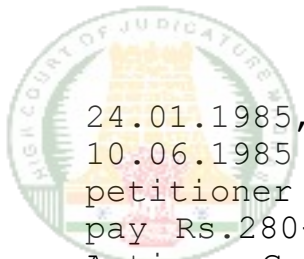


notified, the seniority list was prepared for the cadre of Artisan Grade-II with the date of the above said Government Order dated 10.06.1985. Thereafter, the petitioner and others were submitted many representations to the second respondent and the same was forwarded to the first respondent. The first respondent has issued the impugned communication dated 21.07.2012 to the respondent No.2 reiterating that there is no possibility of revision of the seniority list on the fact that the Tamil Nadu Revised Scales of Pay Rules, 1985 providing for re-designation of Artisan and Workshop Artisan as Artisan Grade-II came into force from 01.10.1984. The impugned revised seniority panel and the consequential communications are prima-facie illegal, since there is a categorical statement in Tamil Nadu Revised Scales of Pay Rules, 1985 that the same came into force from 01.10.1984 and hence, going by the date of the G.O.No.555 notifying the above said Rules i.e., 10.06.1985 is arbitrary and illegal.

3. The petitioner had filed a writ petition in W.PNo.12498 of 2012 challenging the communication in Letter No.39759/Aa5/2011 dated 21.07.2012 on the file of the first respondent and consequent communication in No.3996/E3/2012 dated 08.08.2012 on the file of the respondent No.2 and the same was withdrew by the petitioner.

4. The learned Additional Government Pleader appearing for the respondents 1 & 2 would submit that the petitioner was appointed as Workshop Artisan in the scale of pay Rs.280-5-320-10-450 on 30.12.1983 whereas the respondents 3 to 5 were appointed as Artisan in the scale of pay Rs.295-5-315-10-475 on 24.01.1985, 06.02.1985 and 24.01.1985 respectively. At this juncture, pay of Artisan post is higher than the pay of Workshop Artisan post in which the petitioner was appointed. Prior to IV Pay Commission, Artisan and Workshop Artisan posts holds different scale of pay. In the IV Pay Commission, both the posts Artisan and Workshop Artisan were merged and re-designated as Artisan Gr.II in the scale of Pay Rs.555-15-615-20-795-25-970. The post of Artisan is in category III of Government Engineering College Cl.II other categories item No.122 while the post of Workshop Artisan is in item No.142, a lower category in the same service. If a merged post has different scale of pay, a person holds higher scale of pay before the merger post will be fixed as a Senior. Necessary amendment and Notification was issued vide G.O.Ms.No.400/P & AR Department dated 17.04.1985 which came to effect on the date of amalgamation of post into a new post i.e., 10.06.1985.

5. The Commissioner of Technical Education in the Letter No.R.Dis.104134/A5/2000 dated 04.07.2001 issued a clarification that the IV Pay Commission Government Order was issued on 10.06.1985 prior to that the person holds the scale of Pay Rs.295-475 was preferred as Senior to the person holds the post in the scale of Rs.280-450 in the merged post Artisan Gr.II. The respondents 3 to 5 as Artisan in the scale of pay Rs.295-475 on



24.01.1985, 06.02.1985 and 24.01.1985 respectively i.e., before 10.06.1985 and placed in the seniority list as Senior and the petitioner who holds the post of workshop Artisan in the scale of pay Rs.280-450 was placed after the respondent in the merged post Artisan Grade-II. The seniority panel was prepared by the second respondent as per prevailing Government Order and without incognito. The petitioner being appointed in the lesser scale of pay was being fixed as Junior. There is no violation of Government Order in the seniority panel prepared.

6. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 & 2 and perused the materials available on record.

7. It is seen from the records that the petitioner was standing in the seniority panel as No.2 and as per the seniority list he ought to have been considered in the next avenue of promotion. As the Tamil Nadu revised Scales of Pay Rules, 1985 came into force only from 01.10.1984 and hence going by the date of the G.O. No.555, notifying the above said Rules, i.e., 10.06.1985 cannot be accepted. The petitioner statement that the first respondent has issued the impugned communication dated 21.07.2012 to the second respondent reiterating that there is no possibility of revision of the seniority list that as per the Tamil Nadu Revised Scales of Pay Rules, 1985 providing for re-designation of Artisan and Workshop Artisan as Artisan Grade-II, came into force from 01.10.1984. It is clear that once two persons is having two different scale of pay one person in the higher cadre has to be kept top in the seniority list. The respondents 3 and 5 were appointed on 24.01.1984 as cleaners and the Respondent No.4 was appointed on 24.01.1984 as Lab-Assistant and they all came to be promoted to the post of Artisan only in the year 1985 and as they were not holding the post of Artisan on 01.10.1984, they should not have been included in the panel for the cadre of Artisan Grade-II as on 01.10.1984 is not accepted. The respondents Nos.3 to 5 who were appointed in the lower cadres subsequent to the appointment of the petitioner in the post of Workshop Artisan much prior to the date of appointment of the respondents Nos.3 to 5 cannot be placed in the seniority list ahead of the petitioner even going by the minimum standard of fairness is not accepted.

8. The petitioner was appointed as Workshop Artisan in the scale of pay Rs.280-5-320-10-450 on 30.12.1983 whereas the respondents 3 to 5 were appointed as Artisan in the scale of pay of Rs.295-5-315-10-475 on 24.01.1985, 06.02.1985 and 24.01.1985 respectively. Prior to IV Pay Commission Artisan and Workshop Artisan posts holds different scale of pay. In the IV Pay Commission, both the posts Artisan and Workshop Artisan were merged and re-designated as Artisan Gr.II in the scale of pay of Rs.555-15-615-20-795-25-970. Though the post of Artisan and workshop Artisan



Government Order i.e., from 10.06.1985. The post of Artisan is in category III of Government Engineering College Cl.II other categories Item No.122 while the post of Workshop Artisan is in item No.142, a lower category in the same service. The petitioner was appointed in the lower category as such higher seniority was maintained by the respondents 3 to 5 who was appointed in the higher category is legal.

9. Accordingly the petitioner was working as Workshop Artisan and the respondents 3 to 5 were working as Artisan and it is clear that the same post has merged as different scale of pay, a person holds higher scale of pay before the merger post will be fixed as a senior in the panel. Necessary amendment and Notification was issued by the Government in G.O.Ms.No.400/P & AR Department dated 17.04.1985, which was taken into effect from the date of amalgamation of post into a new post i.e., 10.06.1985. Accordingly, the Commissioner of Technical Education in his letter No.R.Dis.104314/A5/2000 dated 04.07.2001 has issued following clarification about the seniority of the person who hold the post Artisan Gr.II. In the IV Pay Commission, G.O.Ms.NO.555/Pay Cell (Department) dated 10.06.1985 both Artisan Scale of pay of Rs.295-5-315-10-475 and Workshop Artisan scale of pay Rs.280-5-320-10-450 was merged to Artisan Grade II. Above order was issued on 10.06.1985 prior to that a person holds the post with scale of pay Rs.295-475 was presumed as senior to the person holds the post with the scale of pay Rs.280-450 as junior. The person holds the post in the scale of pay Rs.295-475 was preferred as senior to the person holds the post in the scale of pay Rs.280-450 for the merged post Artisan Gr.II as on 10.06.1985. The Respondents 3 to 5 were appointed as Artisan in the scale of pay Rs.295-475 on 24.01.1985, 02.06.1985 and 24.01.1985 respectively was declared as Senior.

10. Based on the clarification issued by the Commissioner of Technical Education, the second respondent has issued a seniority panel vide Proceedings No.810/E(3)/99 dated 31.07.2002 in which respondents 3 to 5 who were appointed as Artisan in the scale of pay Rs.295-475 on 24.01.1985, 06.02.1985 and 24.01.1985 (i.e., before the issue of merger posts in the Government Order) was placed as Senior in the seniority panel list and the petitioner who hold the post of workshop Artisan in the scale of pay Rs.280-450 was placed after the respondents 3 to 5 in the seniority panel list. Therefore, the respondents appointment as Artisan, who were getting the pay of Rs.295-475 dated 24.01.1985 cannot be found illegal. The petitioner being appointed in the lesser scale of pay was fixed as Junior and there is no violation of Government Order in the seniority panel prepared. Hence, the petitioner cannot compare himself with the respondents 3 to 5 and claim seniority.

<https://hcservices.courts.gov.in/hcservices/> of the observations made, the writ petition fails



and stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (AS)

/ /2020

Sub Assistant Registrar(CS)

am

1.The Commissioner,
Directorate of Technical Education,
Guindy, Chennai-600 025.

2.The Principal,
Government College of Engineering,
Tirunelveli-627 007,
Tirunelveli District.

+1 CC to M/s.SPL.GP (SR-12035[F] dated 17/03/2020)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-12085[F] dated 17/03/2020)

W.P (MD) No.14009 of 2012

16.03.2020

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