



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2020

CORAM:

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

W.P. (MD)No.15176 of 2014

and

M.P. (MD) .No.2 of 2014

B.Esakkimuthu

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Higher Education Department,
Fort St.George,
Chennai-9.

2.The Commissioner/Director of Technical Education,
Guindy,
Chennai.

.. Respondents

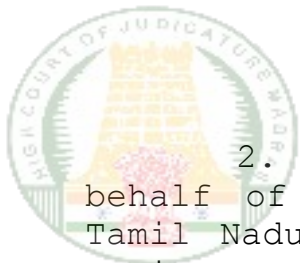
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned G.O. issued by the first respondent in his proceedings in G.O.Ms.No.48 Higher Education (C2) Department dated 28.03.2013 and quash the same as illegal and consequently to direct the respondents to promote the petitioner as Instructor in terms of Rule 2 of the Special Rules for Tamil Nadu Technical Educational Sub-Ordinate Services within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh
for Ajmal Associates

For Respondents : Mr.D.Muruganandham
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to call for records relating to the order issued by the first respondent in G.O.Ms.No.48 Higher Education (C2) Department dated 28.03.2013 and to quash the same and directing the respondents to promote the petitioner as Instructor in terms of Rule 2 of Special Rules for Tamil Nadu Technical Education Subordinate Services.



2. The contention of the learned counsel appearing on behalf of the petitioner is that as per the Special Rules for Tamil Nadu Technical Education Subordinate Services, the post of Junior Drafting Officer is a feeder category for promotion to the post of Instructor. The petitioner is working as a Junior Drafting Officer and therefore, he is entitled to be considered for promotion to the post of Instructor(Engineering), Polytechnics and Special Institutions. However, the case of the writ petitioner was not considered for the post of Instructor. Thus, the writ petition is filed.

3. The petitioner challenged the Government Order issued in G.O.Ms.No.48 dated 28.03.2013, which is nothing but the reorganisation of cadre strength of teaching posts as per All India Council for Technical Education norms. Certain unpopular Courses were also closed in the very same Government Order.

4. The learned Additional Government Pleader appearing on behalf of the respondents made a submission that the post of Instructor in Government Polytechnics was abolished in view of the fact that no such posts were contemplated by the All India Council for Technical Education and the Government issued orders in G.O.Ms.No.1081, Education (J-1) Department, dated 19.08.1989. Pursuant to the abolition of the post of Instructor, the persons, who were holding the post of Instructors were promoted as Lecturers and now the post of Lecturer is initial category in Government Polytechnics and thereafter, Senior Lecturer, Head of the Department and Principal are the higher categories. More specifically, pursuant to the orders of the All India Council for Technical Education, the G.O.Ms.No.1081 was implemented long back and now the post of Instructor is not available, no appointment or promotions are made by the Technical Education Department. After abolition of the post of Instructor, the Rules were also amended by the Government in G.O.Ms.No.184, Higher Education Department, dated 15.10.2004. The impugned Government Order was issued in G.O.Ms.No.48, Higher Education (C2) Department, on 28.03.2013 and thereafter, the Government issued amendment in Rules and the amended Rules are now in force.

5. As the post of Instructor was abolished and the Rules were also amended, the case of the petitioner is to be considered in accordance with the amended Rules, if he is otherwise qualified for the promotion to the higher post. Contrarily, this Court can not issue direction to give promotion to the writ petitioner in the post of Instructor as per the pre-amended Rules.

6. This apart, promotion *per se* cannot be claimed as a matter of legal right. The petitioner claimed that he was fully



qualified for promotion to the post of Instructor. Mere possession of qualification is not a ground to give promotion. Promotion cannot be granted as a matter of right. However, while considering the names of candidates, the officials are bound to consider all the eligible candidates in accordance with the Rules in force. Thus, the relief as such sought for to grant promotion cannot be granted.

7. In view of the facts and circumstances, the writ petitioner has not established any acceptable ground for the purpose of considering the relief as such sought for in the writ petition and thus the writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

PJL

TO

1.The Secretary to Government,
State of Tamil Nadu,
Higher Education Department,
Fort St.George,
Chennai-9.

2.The Commissioner/Director of Technical Education,
Guindy, Chennai.

+1 CC to M/s.GP (SR-19436[F] dated 08/10/2020)

**Order Made in
W.P. (MD)No.15176 of 2014
07.10.2020**

SJ(CO)
TR(21.10.2020) 3P 4C