

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. Nos. 15300 to 15302 of 2011 and
W.M.P. Nos. 1,1 and 1 of 2011

K.M.Ponnathal ... Petitioner in W.P.No.15300 of 2011
R.Ambigapathi ... Petitioner in W.P.No.15301 of 2011
Dr.K.Ambujam ... Petitioner in W.P.No.15302 of 2011

-vs-

1. The Government of Tamil Nadu,
Represented by its Principal Secretary,
Higher Education Department,
Fort St.George, Chennai - 9.
2. The Director of Collegiate Education,
D.P.I. Compound,
College Road, Chennai - 600 006.
3. V.Veerabadran,
Associate Professor in Botany,
LN Government College,
Ponneri, Tiruvallur District.
4. K.Malathi,
Associate Professor,
Department of Economics,
Arignar Anna College for Women,
Wallajapet, Vellore District. ... Respondents
in all W.Ps

PRAYER in W.P. Nos. 15300 and 15302 of 2011 : Writ
Petitions filed under Article 226 of Constitution of
India, praying for issuance of Writ of Mandamus,
directing the first and second respondents to consider
the claim of the petitioner for promotion as Principal,

Grade-I in the Tamil Nadu Collegiate Education Service before 30.06.2011 and promote her as Principal, Grade-I in the Government Arts College and grant her all consequential service and monetary benefits.

PRAYER in W.P. No. 15301 of 2011 : Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus, directing the first and second respondents to consider the claim of the petitioner for promotion as Principal, Grade-I in the Tamil Nadu Collegiate Education Service before 30.11.2011 and promote him as Principal, Grade-I in the Government Arts College and grant him all consequential service and monetary benefits.

For Petitioners
in all W.Ps : Mr.Venkataramani
Senior counsel
for Mr.M.Muthappan

For Respondents
in all W.Ps : Mr.S.Karthikei Balan
Government Advocate

C O M M O N O R D E R

Since the issue raised in all these Writ Petitions are one and the same, with the consent of the learned counsel appearing for both sides, all the Writ Petitions have been heard together and are disposed of by this common order.

2. These petitioners were working as Assistant Professors at various places at the respondent department i.e., in the Directorate of Collegiate Education.

3. According to them, as per the Inter-se Seniority fixed in the cadre, they become eligible to be considered for the post of Principal, Grade-II and also they have been given temporary promotion of Principal, Grade-II and in that capacity, they worked for sometime. Insofar as regular promotion is concerned, though the panel had been prepared for

the post of Principal Grade-II for the year 2010-2011 and it was prepared in Government Order in G.O.Ms.No.147, Higher Education (F1) Department, dated 18.06.2011 before the said panel is acted upon for giving regular promotion to these petitioners as Principal Grade-II, some other aggrieved persons filed Writ Petitions in W.P. Nos. 14485 and 14580 of 2011, where, this Court seems to have given an order of status quo. In view of the interim order of status quo, even though, G.O.Ms.No.147, was issued on 18.06.2011, the said panel has not been acted upon.

4. Therefore, the grievance of the petitioners in these batch of Writ Petitions is that, had the panel as issued in G.O.Ms.No.147 was acted upon, certainly these petitioners, who were admittedly seniors in comparing with the other persons, whose names also found in the panel, definitely were given promotion on regular basis of Principal Grade-II before their retirement on superannuation. Had there been a regular promotion to the post of Principal Grade-II, even though some of the petitioners have been working on temporary basis as Principal Grade-II, their service benefits and pensionable benefits would have been definitely revised and by thus, they would continue to receive the revised pay and pension benefits. In this context, these petitioners have filed these Writ Petitions with the aforesaid prayers.

5. Mr.Venkataramani, learned Senior counsel appearing for the petitioners, would contend that, the petitioners in fact had been in temporary promotion as Principal Grade-II and in that capacity, they were working. At that time, based on the inter-se seniority, a panel was prepared for the post of Principal Grade-II on regular basis for the year 2010-2011, where, admittedly, the names of the petitioners have been included and atleast, two of the petitioners name have been shown as Serial Nos.2&3 in the said G.O., Therefore, it shows that, they are seniors to many of such senior Lecturers / Assistant Professors who are eligible to be promoted as Principle Grade-II. Therefore, if the G.O.Ms.No.147, was given effect to or

acted upon by the respondents, subsequently, these petitioners could have been given promotion as Principal Grade-II on regular basis. However because of the pendency of the Writ Petition filed by some other persons, where an order of status quo was ordered, it was not immediately acted upon and in the meanwhile, they retired from service on superannuation.

6. Therefore, the learned Senior counsel would contend that, on 18.06.2011, when the G.O.Ms.No.147 was issued, all these petitioners were eligible to be considered for the promotion on regular basis to the post of Principal Grade-II and the inaction on the part of the respondents and the reasons for such inaction cannot be attributable to the petitioners. Therefore, the learned Senior counsel would submit that, even though the petitioners retired long back i.e., on 30.06.2011, however such a direction notionally can be given now taking into account, the G.O.Ms.No.147 dated 18.06.2011, where some pensionable benefits could be given to the petitioners and only for the said purpose, a suitable direction as has been prayed by these petitioners in these Writ Petitions may be issued, he contended.

7. However, Mr.S.Karthikei Balan, learned Government Advocate appearing for the respondents, on instructions, would submit that, no doubt, G.O.Ms.No.147 dated 18.06.2011 was issued, where the names of the petitioners were found. However, merely because of the issuance of G.O.Ms.No.147, where the panel of persons like the petitioners fit for promotion for Principal Grade-II for the year 2010-2011 were found, that would not ipso facto confers any right automatically to the petitioners and similarly placed persons whose names are found place in G.O.Ms.No.147.

8. For whatever reasons, even if a panel fit for promotion are prepared and subsequently, the panel is not acted upon, merely based on the issuance of the panel, no one, whose names found in the panel, can seek for any right of promotion, as such kind of vested right never been conferred on them.

9. Therefore, the learned Government Advocate appearing for the respondents would submit that, the plea now raised by the petitioners, merely by filing these Writ Petitions for considering them for giving promotion as Principal Grade-II on regular basis retrospectively may not arise at this stage as admittedly they retired from service, as early as on 30.06.2011. Therefore, the said contention raised by the learned Senior counsel appearing for the petitioners on behalf of the petitioners may be rejected, he contended.

10. I have considered the rival submissions made by both parties and have perused the materials placed before this Court.

11. Though the petitioners are not conferred with any vested right to seek promotion merely because of issuance of G.O.Ms.No.147, dated 18.06.2011, where the names of the petitioners are found place as contended by the learned Government Advocate appearing for the respondents, it is to be noted that, the eligibility of the petitioners were not in dispute for the purpose of getting promotion as Principal Grade-II on regular basis and these petitioners were in fact given temporary promotion to that post, i.e., Principal Grade-II and were working sometime, i.e., before the issuance of G.O.Ms.No.147. Therefore, had this panel acted upon before the superannuation of the petitioners definitely they would have been given regular promotion in the category of Principal Grade-II and the same could not be materialized for various reasons including the pendency of the Writ Petition, where the order of status quo seems to have been given.

12. Therefore, this Court feels that, it is for the respondents to take into account all these developments and accordingly, the plea of the petitioners can very well be considered in proper perspective.

13. For the said purpose, this Court feels that, a direction can be given to the respondents to consider

the representation made in this regard individually by each of the petitioners and to that effect, orders can be directed to be passed within a time frame.

14. In that view of the matter, this Court is inclined to dispose of these Writ Petitions with the following orders:

"(i) That the respondents are hereby directed to consider the representation individually submitted by the petitioners at various dates and consider their plea for giving promotion as Principal Grade-II on permanent basis, pursuant to the G.O.Ms.No.147, Higher Education (F1) Department dated 18.06.2011 and there upon, pass orders on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

(ii) The petitioners shall send the copy of this order along with the copy of the representation they already made in view of the passing of long time after the Writ Petition was filed, within two weeks period and on receipt of the same, the needful as indicated above shall be undertaken by the respondents within the time frame.

(iii) If any further input the petitioners want to supply, they can also supply the same."

15. With these directions, all these Writ Petitions are disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vji

To

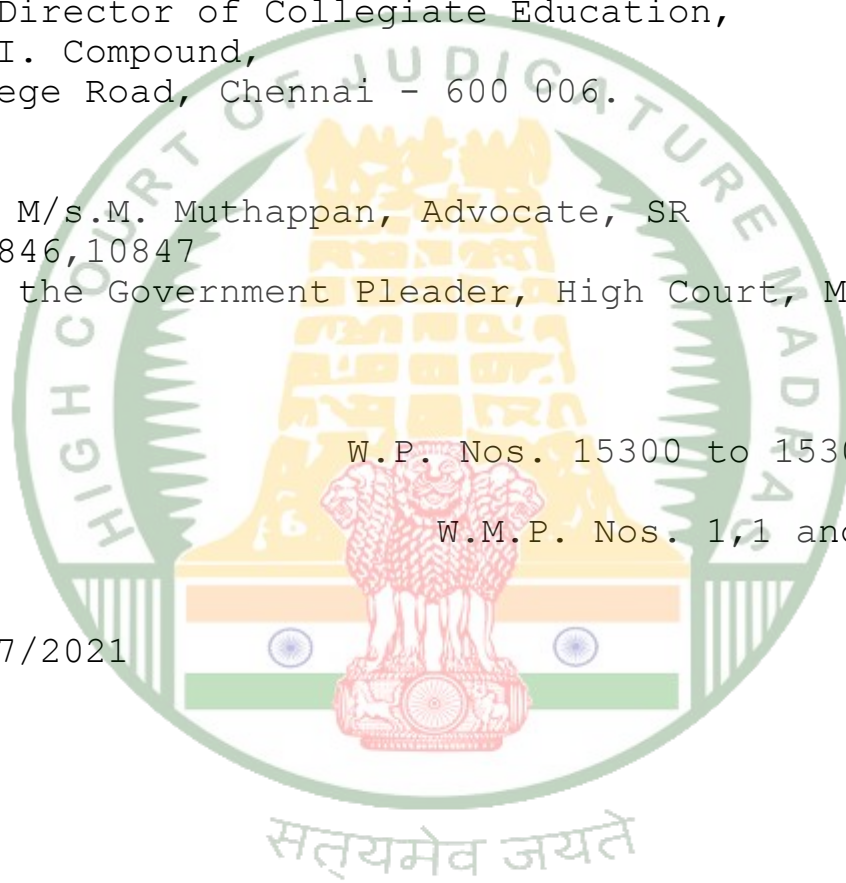
1. The Principal Secretary,
The Government of Tamil Nadu,
Higher Education Department,
Fort St.George, Chennai - 9.
2. The Director of Collegiate Education,
D.P.I. Compound,
College Road, Chennai - 600 006.

+3 cc to M/s.M. Muthappan, Advocate, SR
10845,10846,10847

+1 cc to the Government Pleader, High Court, Madras, SR
10720

W.P. Nos. 15300 to 15302 of 2011
and
W.M.P. Nos. 1,1 and1 of 2011

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