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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.19717 of 2005

M.Paramasivam

... Petitioner

Vs.

Anna University
rep by its Registrar
Guindy,
Chennai-600 025.

... Respondent

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to impugned orders of the respondent in No.52419/PR43/2002 dated 09.09.2004, 28.10.2004 and 30.11.2004 and quash them and direct the respondent University to promote me as Special Grade Mechanic A (Special Grade) with effect from 01.01.1996 with all consequential benefits while in service and after retirement from 31.01.2002 such as revision of pension, gratuity and other retirement benefits.

For Petitioner : Mr.Gunasekaran Sundaram
for Ms.N.Kannagi

For Respondent : Mr.V.Govardhanan

O R D E R

The petitioner was serving under the Directorate of Technical Education. After the formation of Anna University his services were absorbed under respondent Anna University, where he was posted as Mechanical Special Grade 'C'. The Anna University framed service Rules of various categories in which the Mechanic Special Grade 'C' was not given any promotional avenue. The next category of Mechanic Special Grade 'B' was shown as direct recruitment post. The qualification is that the person must possess Diploma in relevant branch of Engineering with not less that two years of practical experience in the relevant field or must possess ITI certificate in the relevant field with not less that 9 years practical experience. In the case of a person holding the post of Mechanic Special Grade 'B',



he can be promoted to the post of Mechanical Special Grade 'A' by way of direct recruitment as well as promotion. Only in this category i.e promotion from the post of Mechanic Special Grade 'C' to Mechanic Special Grade 'B' was not given. In view of the Statutory rules, the respondent University has not promoted the petitioner and he languished in the very same post for 24 years without any promotion. It is well settled that isolation of posts without promotional avenue is arbitrary and illegal. The Government has stated that if no promotions are given after a period of 10 years the Selection grade will be given and after a period of another 10 years for those who have no career progress, Special Grade is given. It does not mean that no promotion shall be given to them. The Selection Grade and Special Grade are given to boost up the morale of where the employees, where the promotion is delayed but promotional avenue cannot be blocked once and for all. Therefore, only when there is no promotion to the higher post the Selection Grade and Special Grade are given. But it is not an alternative for denying promotional avenue.

2. In the instant case, the petitioner admittedly was taken into service after the formation of Anna University in the year 1978. In his parent department viz., Directorate of Technical Education there were promotional avenues for Mechanic Special Grade 'C' to higher post. Taking away such vested right is illegal. Further, the new Service Rules made should have provided some avenue of promotion to the existing employees who were working in the lower category like petitioner. The denial of that promotional prospects which were available in the erstwhile department removed in the newly formed University is contrary to service jurisprudence.

3. Infact, a professor of Mechanical Engineering recommended the case of the petitioner to the Head of the Department on 29.10.2002 for redesignation of his post as Mechanic Special Grade 'A' in consideration of 25 years of his meritorious service. It would have given him a little financial benefit as he has already achieved the scale of pay through Selection grade and Special grade. This was denied on the ground that statute does not provide for it.

4. As stated supra, the isolation of posts without promotional avenue is arbitrary and illegal and the Service rule provides for method of promotion to all other posts, but it is not provided only to this post. Specifying nine years of experience, while it is two years for direct recruits lead us to infer, the nine years service as meant for in service candidates for the purpose of promotion. At times the printer's devil plays havoc in the career progression of employees. This Court is of the opinion that framers of statutory rules, while categorizing



the post of Mechanic as Grade-I -III, must have intended providing promotional avenue step by step. If not the denial of promotion from Mechanical Special Grade 'C' to Mechanical Special Grade 'B' is arbitrary illegal and cannot be accepted. Therefore, the impugned order passed by the respondent denying the petitioner promotion redesignating as Mechanic Special Grade 'A' is set aside. The respondent is directed to consider the re-designation of the post held by the petitioner as Mechanical Special Grade 'B' on completion of nine years of service, and as Mechanical Special Grade 'A' on completion of five years of service and give notional fixation of pay and disburse all attendant benefits within a period of three months from the date of receipt of a copy of this order. It is also made clear that this order cannot be taken as a precedent and it pertains only to the case of the petitioner.

Writ petition is order with the above directions. No costs.

s/d-
Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

To

The Registrar
Anna University
Guindy,
Chennai-600 025.

+1 CC to M/s. Row and Reddy, Advocate sr 35032.

W.P.No.19717 of 2005

PCH(CO)
SP(13/08/2021)