



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2021

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THE HON'BLE MR. JUSTICE C.SARAVANAN

W.P. No.20371 of 2018

and

W.M.P.No.23923 of 2018

(Through Video Conferencing)

Dr.P.Anbarasu

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
Higher Education Department,
Secretariat, Chennai 600 009.
2. The Director of Collegiate Education,
Chennai 600 006.
3. The Chairman,
Teachers Recruitment Board,
Chennai 600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for G.O.No.265, Higher Education (F2) Department dated 19.09.2017 from the file of the 1st respondent quash the same and forbear the respondents from disturbing or altering the communal rotation already adopted for the petitioner while selecting him against the then existing vacancy for the year 997-98 through the G.O.Ms.No.525, Higher Education (F2) Department dated 24.08.1998 on the file of the 1st respondent and pass orders.

For Petitioner : Mr.D.Shivakumaran

For Respondents: Mr.L.S.M.Hasan Fizal for R1 & R2
Government Advocate

Mr.C.Kathiravan
Government Advocate for R3



ORDER

The petitioner was selected as Assistant Professor (Electronic Science) in the year 1997-1998 by following communal rotation. The petitioner belongs to BC community. It is the case of the petitioner that the petitioner was one among 457 persons who was found fully qualified to be appointed as a post of Assistant Professors which post was redesignated from the post of Lecturers in Category I and Category II of Class VII in Tamil Nadu Collegiate Educational Service. At the time of regularization, the petitioner's name was at Sl.No.121, implying the petitioner's seniority was at Sl.No.121.

2. The petitioner has challenged the impugned notification No.297 dated 19.09.2017 on the ground of G.O.Ms.265, Higher Education (F20 Department dated 19.09.2017 published in Tamil Nadu Government Gazette on the same date.

3. It is the case of the petitioner that strangely the petitioner's name has been placed at Sl.No.484 implying the petitioner has lost his seniority from Sl.No.121 at the time of regularization. It is also further submitted that the respondents in their counter have also admitted that there was anomaly in the seniority and therefore the discrepancy was being addressed. The learned counsel for the petitioner has drawn attention to Paragraph 10 of the counter filed by the respondents which reads as under:-

'10.With reference to Tamil Nadu Government Servant (Conditions of Service) Act 2016 in Section 40 which deals with fixation of seniority. TRB only recruits and sends selection list with Roster to appointing authority. The Inter-se-seniority has to be fixed by appointing authority based on probation declaration, punishment whose details or not with TRB. As per rules Inter-se-seniority has to be done by appointing authority. The records requested can be sent along with. Any anomalies can be solved at their end itself. Hence the Government was requested to consider the proposal that the user department may fix the Inter-se-seniority and rectify the discrepancies and issue necessary orders.'

4.By an order dated 14.07.2021, this Court had directed the respondents to file status report with regard to the steps taken



in terms of paragraph 10 of the counter affidavit which was extended by an order dated 28.07.2021.

5. Pursuant to the order dated 14.07.2021 3rd respondent has now filed a status report in Para 9 and Para 10 wherein it has been stated that Inter-se-seniority has been fixed by the appointing authority namely the 1st and 2nd respondent.

6. Considering the fact, that the 3rd respondent has admitted that there is some discrepancy of seniority list prepared by them, this writ petition is disposed by directing the respondents to prepare a fresh list of seniority in terms of Section 40(1) of the Tamil Nadu Government Servant (Conditions of Service) Act, 2016. This exercise shall be carried out by the respondents within a period of 4 months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Higher Education Department,
Secretariat, Chennai 600 009.
2. The Director of Collegiate Education,
Chennai 600 006.
3. The Chairman,
Teachers Recruitment Board,
Chennai 600 006.

+1cc to M/s.D.Shivakumaran, Advocate, S.R.No.55480

+1cc to the Government Pleader, S.R.No.56185, 56212

W.P.No.20371 of 2018
and
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KSM(CO)
SU(02/12/2021)