



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.20003 of 2019

and

W.M.P(MD)No.16518 of 2019

WEB COPY

Saravanan

... Petitioner

vs.

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

2.The Principal,
Alagappa Chettiar Engineering College,
Karaikudi -3,
Sivagangai District.

3.Karu.Rajendran

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order of the second respondent, dated 17.05.2019 in Ref.No.2494/E2/2019 and quash the same and consequently direct the second respondent to give promotion to the petitioner from the date of promotion to the third respondent as Artisan Grade-I, Instructor and Foreman Instructor with equal pay.

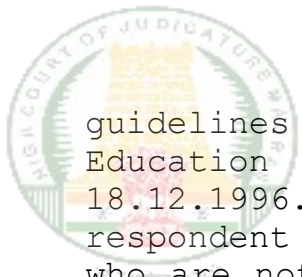
For Petitioner : Mr.S.Natarajan

For RR 1 & 2 : Mr.P.Subbaraj
Government Advocate

ORDER

The petitioner has filed the present Writ Petition, to quash the order of the second respondent, dated 17.05.2019 and to direct the second respondent to give promotion to the petitioner from the date of promotion to the third respondent as Artisan Grade-I, Instructor and Foreman Instructor with equal pay.

2.According to the petitioner, he was appointed as Masthur Grade-II in Mechanical Workshop in the year 1994. He was promoted as Masthur Grade-I in the year 1999 and subsequently, he was promoted as Artisan Grade-II on 13.02.2002 in the Department of Mechanical Engineering. The next avenue of promotion is to the post of Artisan Grade-I. The Government prescribed educational qualifications and



guidelines for various posts and services in G.O.Ms.No.1160, Education Department, dated 27.06.1988 and G.O.Ms.No.739, dated 18.12.1996. Further, according to the petitioner, the second respondent deviating from the said guidelines, promoted the persons, who are not having educational qualifications and the persons not in the Feeder category. Had the second respondent followed the guidelines, the petitioner would have been promoted as Artisan Grade-I on 01.07.2008 itself. The second respondent by misinterpreting G.O.Ms.No.220, Higher Education Department, dated 06.07.2009, promoted ineligible persons working in different fields other than Artisan Grade-II. In view of such stand taken by the second respondent, the petitioner was placed in Serial No.32 and asked the petitioner to wait for his turn. The second respondent promoted the petitioner's juniors and promotion to the petitioner was denied. The third respondent was appointed as Artisan Grade-II on 24.03.2004, while the petitioner was promoted as Artisan Grade-II on 13.02.2002. Without considering the same, the second respondent promoted the third respondent as Artisan Grade-I on 21.08.2012 and given further promotion on 15.04.2015 as Instructor (Workshop) and Foreman Instructor on 08.12.2017. The petitioner was given promotion as Artisan Grade-I only on 12.08.2015 and as Instructor (Workshop) on 10.01.2019. Hence, the petitioner gave a representation, dated 10.04.2019, to the respondents for his promotion. The second respondent rejected the same, by impugned order, dated 17.05.2019. Challenging the same, the petitioner has come out with the present Writ Petition.

3.The learned counsel appearing for the petitioner submitted that the reason given by the second respondent that the petitioner has not objected to the seniority given to the third respondent within one month is not correct. The petitioner in the year 2009 itself filed W.P.No.25425 of 2009 before the Principal Bench of this Court, claiming promotion and the same was disposed of only on 04.03.2021, taking into consideration that the petitioner was promoted in the year 2015 as Artisan Grade-I and prayed for allowing the Writ Petition.

4.The respondents 1 and 2 filed counter-affidavit.

5.Mr.P.Subbaraj, learned Government Advocate appearing for the respondents 1 and 2 referred to the counter-affidavit and submitted that the third respondent was appointed as Lab Assistant in the year 1988. The salary for Lab Assistant and Artisan Grade-II are one and the same. The third respondent was regularised in the year 1990, after successfully completing his probation. The third respondent was transferred as Artisan Grade-II in the year 2004. Both the Lab Assistant as well as Artisan Grade-II classified under the same Class IV and category 7 of the Special Rules for Tamil Nadu Technical Educational Subordinate Service, carry identical scale of pay and

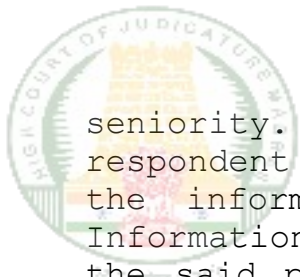
<https://hccservices.courts.gov.in/hccservices/>



feeder category of Lab Assistant ie., from 28.11.1988, while drawing panel for promotion to the post of Artisan Grade-I and hence, the third respondent was considered as senior to the petitioner for the said promotion to Artisan Grade-I, whereas, the petitioner joined service only on 27.05.1994 as Mazdoor Grade-II and he was promoted to the post of Artisan Grade-II only on 13.02.2002. The seniority list for promotion to the post of Artisan Grade-I was published by the proceedings, dated 05.07.2010. In the said seniority list, the third respondent was shown in serial No.8, whereas the petitioner was shown in serial No.30. The objections were called for within 30 days from the date of issue of seniority list. The petitioner did not object to the said seniority list. The petitioner also did not challenge the appointment of the third respondent as Artisan Grade-I in the year 2012, Instructor (Workshop) in the year 2015 and further promotion as Foreman Instructor in the year 2017. The petitioner was promoted as Artisan Grade-I on 12.08.2015 and further promoted to the post of Instructor (Workshop) by the first respondent on 10.01.2019 and posted in the Government College of Engineering, Sengipatti, Thanjavur. The petitioner by his letter, dated 13.05.2019, voluntarily and wilfully relinquished the said promotion given to him and he continued to hold the post of Artisan Grade-I in the same station. Suppressing the said fact, the petitioner has filed the present Writ Petition and prayed for dismissal of the Writ Petition.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2 and perused the entire materials available on record.

7. From the perusal of the entire materials available on record, it is seen that the petitioner, who joined as Masthur Grade-II in Mechanical Workshop in the year 1994 and promoted as Artisan Grade-II in the year 2002. The next avenue of promotion is to the post of Artisan Grade-I. According to the petitioner, promotion to the post of Artisan Grade-I can be given only by following the educational qualifications and guidelines for various posts and services prescribed in G.O.Ms.No.1160, dated 27.06.1988 and G.O.Ms.No.739, dated 18.12.1996. The second respondent deviating the said guidelines and misinterpreting G.O.Ms.No.220, Higher Education Department, dated 06.07.2009, promoted the petitioner's juniors to the post of Artisan Grade-I. In the present Writ Petition, the petitioner specifically has stated that the third respondent was junior to him in the post of Artisan Grade-II, as he was appointed only on 24.03.2004, while the petitioner was appointed on 13.02.2002 as Artisan Grade-II. According to the second respondent, the third respondent was appointed as Lab Assistant in the year 1988 and regularized in the year 1990 itself. The post of Lab Assistant and Artisan Grade-II is classified under the same Class IV and category 7 of the Special Rules for Tamil Nadu Technical Educational Subordinate Service, carry identical scale of pay. According to the second respondent, the third respondent was



seniority. The contention of the second respondent is that the third respondent was transferred as Artisan Grade-II was substantiated by the information received by the petitioner under the Right to Information Act, which was filed in the typedset of papers. As per the said proceedings, dated March, 2004, signed on 19.03.2004, the third respondent was only transferred to the post of Artisan Grade-II and it was not a promotion to that post. In addition to that, on 07.07.2010, a seniority list was published containing names of persons eligible to be promoted to the post of Artisan Grade-I. In the said list, the third respondent was in serial No.8, whereas the petitioner was in serial No.30. The petitioner, who claims that he is senior to the third respondent, did not object to the said seniority list. Further, the petitioner did not challenge the promotion of the third respondent on 21.08.2012 as Artisan Grade-I, Instructor (Workshop) on 15.04.2015 and Foreman Instructor on 08.12.2017. The petitioner is claiming relief of promotion from the year 2012 onwards when the third respondent was promoted as Artisan Grade-I and his subsequent promotion. The Writ Petition was filed in the year 2019. The petitioner has not claimed promotion from the year 2010 onwards and he was not vigilant enough to get his grievance redressed, if any, immediately in any event, within a reasonable time. The petitioner is not entitled to the relief sought for in the present Writ Petition, as the petitioner has not made out any case that the third respondent is his junior. It is pertinent to note that when the petitioner was promoted as Instructor (Workshop) on 10.01.2019, the petitioner by letter, dated 13.05.2019, relinquished his promotion as Instructor (Workshop). Suppressing the same, the petitioner has come out with the present Writ Petition.

8.For the above reasons, the petitioner is not entitled for the relief sought for in the present Writ Petition and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



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

2.The Principal,
Alagappa Chettiar Engineering College,
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+1 CC to M/s.SPL GP (SR-23213[F] dated 19/07/2021)

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RD(3.08.2021) 5P 4C