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WP No.22280 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-11-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.22280 of 2019

R.Parthiban

..

Petitioner

VS.

1.The State of Tamil Nadu,
Represented by the Secretary to Government,
Department of Higher Education (XII),
Fort St. George,
Chennai – 600 009.

2.The Commissioner of Technical Education,
Guindy,
Chennai – 600 020.

3.The Principal,
Alagappa Chettiar Government College of
Engineering and Technology,
Karaikudi – 630 003. ..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India,



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praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 to grant seniority and monitory benefits to the petitioner on par with the Assistant Professors who appeared for the selection in the same batch of recruitment conducted by Teachers Recruitment Board for 2006-2007 and wrote the examination on 07.10.2007 along with me and appointed in the year 2008 and grant him all attendant benefits.

For Petitioner : Ms.A.Arulmozhi
For Respondents : Mr.A.Anandan,
Government Advocate.

ORDER

The relief sought for in the present writ petition is to direct the respondents 1 and 2 to grant seniority and monitory benefits to the petitioner on par with the Assistant Professors who appeared for the selection in the same batch of recruitment conducted by Teachers Recruitment Board for 2006-2007 and wrote the examination on 07.10.2007 along with me and appointed in the year 2008 and grant him all attendant benefits.

2. The petitioner states that he participated in the process of



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selection for appointment to the post of Lecturer in the Government Engineering Colleges and Polytechnics through Teachers Recruitment Board for the year 2006-2007. He was successful in the written examination held on 07.10.2007.

3. In the selection list, the name of the petitioner was admittedly not found, since the Teachers Recruitment Board failed to follow the reservation for physically challenged. Thus the representation submitted by the writ petitioner was rejected and he filed WP No.3858 of 2008. The matter went upto Division Bench and the Division Bench of this Court by an order dated 30.10.2009 quashed the impugned order and passed the following orders:-

“19. Therefore, the impugned order passed by the 2nd respondent in OM No.4426/AA4/2007 dated 27.12.2007 is hereby quashed and the writ petition stands allowed. The petitioner shall be appointed to the post of Lecturer in Physics under the handicapped reservation. Since the writ petitioner belongs to a backward community, which is the next roster point, shall be considered



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subject to the fulfilling of the other qualifications required for such appointment. The respondents are granted three months time from the date of receipt of copy of this order to complete this exercise. No costs. Consequently, connected MP is closed."

4. Based on the order passed by the Division Bench of this Court, cited supra, the Government, considering the issue as a special case, based on the orders of the Court and issued G.O.Ms.No.19, Higher Education Department, dated 27.01.2011, appointing the writ petitioner as Lecturer as a special case. The Government Order specifically states that the case of the writ petitioner should not be quoted as precedent for any other case in future.

5. It is made clear that the petitioner was not selected and based on the judgment of the Division Bench, cited supra, the case of the petitioner was considered as a special case and accordingly, he was appointed in the year 2011 as Lecturer. Now after a lapse of about eight years from the date of appointment, the petitioner has filed the present writ petition, seeking



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seniority from the date of selection process of the year 2006-2007 with monetary benefits.

6. The petitioner was not selected initially and further, he was not appointed. Therefore, the question of granting retrospective seniority would not arise at all. The question of seniority would arise only if a person appointed is in service. The petitioner was not even appointed into the services and therefore, considering the case of the writ petitioner for grant of retrospective seniority would not arise at all and such retrospective claims can be considered only if an employee was appointed and thereafter, he was removed from service or some actions were taken and if he was reinstated in service, then alone the question of granting retrospective monetary benefits and continuity of service would arise.

7. In the present case, the petitioner was not even selected and his non-selection was challenged before the High Court and the High Court allowed the case of the writ petitioner in the year 2009 and based on the orders of this Court, an order of appointment was issued as special case.



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8. That being the factum, the petitioner is not entitled to claim retrospective seniority or monetary benefits from the selection year, since he was not even selected nor appointed.

9. Accordingly, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs.

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Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
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S.M.SUBRAMANIAM, J.

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