



W.P(MD)No.13919 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13919 of 2022

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... Petitioner

Vs

The Registrar,
Bharathidasan University,
Trichy.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order issued by the respondent in his proceedings in Na.Ka.No.P6/25786/2005 dated 23.03.2022 and quash the same consequently direct the respondent herein to promote the petitioner to any class III post such as Attender or any other promotional post from the date of his confirmation i.e. after one year service with all back wages and other monetary benefits within the time stipulated by this Court.

For Petitioner : Mr.B.Jameel Arasu

For Respondent : Mr.VR.Shanmuganathan
Standing Counsel



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ORDER

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Heard the learned counsel appearing for the writ petitioner and the learned Standing Counsel appearing for the respondent University.

2. The writ petitioner was appointed as Watchman / Guard in the respondent University on 18.08.1998. His post was redesignated as that of Office Assistant on 26.08.2009. The petitioner now seeks promotion to the post of Attender or any other post in Class III. When the request was made in this regard, it was not favourably considered and the impugned communication dated 23.03.2003 was issued to that effect. Questioning the same, the present writ petitioner has been filed.

3. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant the relief of promotion as prayed for.

4. The respondent University filed their counter affidavit. The learned Standing Counsel took me through its contents. The learned Standing Counsel would point out that on an earlier occasion, the writ petitioner was offered promotion as Record Clerk. During the relevant time, the retirement age for



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the post of Record Clerk was 58, whereas the retirement age for the post of Watchman was 60. The petitioner therefore declined the offer of promotion and continued to work as Watchman. Now that there is parity in the retirement age. The petitioner has developed second thoughts and now he wants promotion. The learned Standing Counsel would further point out that for the post of Record Clerk or Attender, the feeder grade is only that of Office Assistant and not Watchman. Since the petitioner became Office Assistant only in the year 2009, his service can be reckoned only from the said year. He called for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. There is no dispute that for the post of Attender / Record Clerk, the feeder grade is Office Assistant. It is not as if the petitioner was promoted to the post of Office Assistant in the year 2009. On the other hand, he was only redesignated as Office Assistant. The pay scales of Watchman and that of Office Assistant are one and the same. Therefore, fairness requires that the petitioner's qualifying service in the feeder grade is reckoned with effect from 18.08.1998. The petitioner of course cannot be granted any retrospective promotion, because he voluntarily gave up the offer of promotion.



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7. The learned counsel appearing for the petitioner would deny the said stand taken in the counter affidavit, but no rejoinder has been filed. I therefore go by what has been set out in the counter affidavit. The respondents are directed to consider the petitioner's case for promotion as Attender or Record Clerk or any other post in Class III by reckoning his service in the feeder grade with effect from 18.08.1998.

8. This writ petition is disposed of on these terms. No cost.

10.11.2022

Index : Yes / No
Internet : Yes/ No
mga

To

The Registrar,
Bharathidasan University,
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G.R.SWAMINATHAN, J.

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