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W.P.No.2530 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

CORAM

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.2530 of 2015

C.Ilayaraja

... Petitioner

Vs.

1.The Government of Tamilnadu,
Represented by its Secretary to Government,
Higher Education Department,
Fort St.George, Chennai - 600 009.

2.The Joint Director of Collegiate Education,
College Road, Nungambakkam,
Chennai - 600 006.

3.The Secretary,
Tranquebar Bishop Manikkam,
Lutheran College (TBML College),
Porayur, Nagappattinam - 609 307.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the Respondents 1 and 2 to re-designate the post of 'Mechanic Grade-II' held by the Petitioner as 'Mechanic Grade-I' with effect from 26.11.2007, the date of his appointment apart from upholding the subsequent development as entitled to by the Petitioner for further re-designation as 'Training Instructor' with revision of scale of pay ordered to Thiru.P.Nelson pursuant to G.O.Ms.No.170, Finance



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(CMPC) Department, dated 26.06.2014 in the course of implementing the recommendation of One Man Commission as per G.O.Ms.No.338 Finance (pay-cell) Department, dated 26.08.2010, besides disbursing to him the difference in the 'Mechanic Grade-I' cadre pay-scales with effect from 26.11.2007 and with all other attendant benefits by passing appropriate orders on the Petitioners latest representation dated 03.11.2014 and reminder dated 24.11.2014.

For Petitioner : M/s.A.Amal Raj
For R1 and R2 : Mr.L.S.M.Hasan Fizal
Additional Government Pleader
For R3 : Notice served
No appearance

ORDER

This Writ Petition has been filed for direction directing the respondents 1 and 2 to re-designate the post of 'Mechanic Grade-II' held by the petitioner as Mechanic Grade-I with effect from 26.11.2007.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents 1 and 2 and perused the materials available on record. Though notice was served on the third respondent and the name has been printed in the cause list, today, no one appeared before this Court in person or through pleader.



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3. The petitioner, after completion of SSLC, had undergone 'National Trade Certificate Training Course' in Electrician Trade for two years. He had also passed the Higher Secondary examination. Thereafter, he had completed Diploma Course in Computer Application and he acquired computer knowledge. He had served as Junior Mechanic at the Physics Department of the third respondent College. By proceedings dated 14.05.2007, the Director of Collegiate Education had sanctioned one post of 'Mechanic' to the third respondent, which is an aided Minority Educational Institution. In the said post, the third respondent appointed one A.Sargunan as Junior Mechanic and after his retirement, the petitioner was appointed as Junior Mechanic, re-designated as Mechanic Grade-II by an order of appointment dated 23.11.2007, with effect from 26.11.2007. Thereafter, the petitioner's appointment was sent for approval and however it was rejected and the same was challenged before this Court in WP.No.9398 of 2010. This Court, by an order dated 25.11.2010 directed the respondents to pass orders considering his approval for appointment. Accordingly, by proceedings dated 02.04.2012, the appointment was approved as Junior Mechanic from date of his appointment.



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4. By G.O.Ms.No.1704 Education Department, dated 21.12.1990, thereby relaxing the educational qualification and other eligibility requirements, the persons with lesser experience and even no experience shall be considered, but there is no specification that the same only in prospective operation. Therefore, one of the persons filed writ petition before this Court and the same was allowed by giving retrospective effect, permitting the said petitioner to draw all the arrears. Therefore, the petitioner is entitled to the said relief. Further, as per the order passed by the Division Bench of this Court number of Mechanics and Junior Mechanics, irrespective of the nature of their appointments received only the Scale of pay entitled to the post of 'Junior Mechanics' have approached this Court. This Court considered their grievances and ordered to treat each individuals as Mechanic Grade I and upholding their entitlement of drawing the Scale of pay for the post of Mechanic Grade I.

5. The second respondent filed a Counter and it revealed that in the third respondent College there was no sanctioned post of Junior Mechanic. Only by the order passed by this Court, the post of Junior Mechanic was approved by the second respondent. Therefore, the petitioner has not been eligible for



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retrospective regularization as Grade I Mechanic from 26.11.2017. There is no discrimination involved in this issue, since the third respondent College was sanctioned with Junior Mechanic post by the Director of Collegiate Education. The claim of the petitioner for re-fixation of Scale of pay as per G.O.Ms.No.170, Finance(CMPC) Department, dated 26.06.2014 to re-designate the post of Mechanic Grade-I as 'Training Instructor' has not been applied to the petitioner.

6. As stated supra, as per the order passed by the Division Bench of this Court, this Court allowed the similarly placed persons like the petitioner and directed to re-designate the post of Mechanic Grade-II as Mechanic Grade-I.

7. In view of the above, the petitioner is also entitled for the designation to the post of Mechanic Grade-I. Accordingly, the Respondents 1 and 2 are directed to re-designate the post of Mechanic Grade-II held by the petitioner as Mechanic Grade-I with effect from 26.11.2007 with all other attendant benefits, within a period of twelve weeks from the date of receipt of a copy of this order. It is also made clear that the petitioner is also entitled for subsequent promotion to the post of 'Training Instructor'.



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Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
rjr/mn



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To

1. The Secretary to Government,
The Government of Tamilnadu,
Higher Education Department,
Fort St.George, Chennai - 600 009.
2. The Joint Director of Collegiate Education,
College Road, Nungambakkam,
Chennai - 600 006.



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