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W.P.No.14320 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2020

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.14320 of 2020

and

W.M.P.No.17790 of 2020

N.V.Nathichandran (M, 51)

S/o.N.M.Vellakaran

Training Officer

District Skill Training Office

President

Skill Training Graduate Engineering Association

(Reg.No.SRG/Trichy/48/2019 dated 20.03.2019)

G.N.Mills Post, Coimbatore 641 029

... Petitioner

/Vs/

1.Government of Tamil Nadu

Represented by Additional Chief Secretary to Government

Labour and Employment Department

Secretariat

Chennai 600 009.

2.The Director of Employment and Training

Guindy, Chennai 600 032.

3.D.K.Sivakumar

S/o.R.Kaliappan

No.5/1299-1, Kamarajar Street

Annai Mandapam Back Side

Elakkiyampatti, Dharmapuri

Dharmapuri District

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the first Respondent to pass appropriate orders on the proposals of 2nd Respondent in Na.Ka.No.39658/PA1/2019 dated 26.08.2020 and Na.Ka.No.21610/Tech.PA1/2020 dated 07.09.2020 in the light of Guidelines issued in Letter No.MSDE.19/03(10)/2015 CD dated 07.01.2016 of the Directorate General of Training, Government of India with regard to 'Career progression for Instructors' with retrospective effect from 07.01.2016 and on that basis prepare/revise the panels for promotion and to pass appropriate orders for grant of consequential benefits, prior to publication of any panel for promotion to any higher post in the Respondent Department.

For Petitioner : Mr.S.Balakrishnan

For Respondents : Mr.P.Sanjai Gandhi (for R1 & R2)
Government Advocate

Mr.N.Palanikumar (for R3)
for P.Kannadasan

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus directing the first Respondent to pass appropriate orders on the proposals of 2nd Respondent in Na.Ka.No.39658/PA1/2019 dated 26.08.2020 and



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Na.Ka.No.21610/Tech.PA1/2020 dated 07.09.2020 in the light of

Guidelines issued in Letter No.MSDE.19/03(10)/2015 CD dated 07.01.2016 of the Directorate General of Training, Government of India.

2.The Petitioner has filed this Petition in his capacity as President of the Skill Training Graduate Engineering Association. On 07.01.2016 the Directorate General of Training, Ministry of Skill Development and Entrepreneurship (MSDE), has given the following guidelines for career progression for Instructors of Industrial Training Institutions (ITIs).

“i.For promotion to the post of Principal and Group Instructor 25% of post in promotion quota will be reserved for degree holders. Remaining 75% will be filled on seniority basis considering all i.e., Degree (remaining not covered under 25%)/Diploma/CTS holders.

ii.Pay parity should to be restored and initial grade pay should be fixed to Rs.4600/-

iii.After eight years of service as instructor there should be a change in designation from instructor senior instructor with an additional increment.”

3.The Petitioner cannot have grievance in respect of clause ii and iii.



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His only grievance is that the said guidelines has not been considered so far, despite proposal has been sent in this regard by the second Respondent on 26.08.2020 and on 07.09.2020.

4.Heard the learned counsel for the Petitioner and the learned Government Advocate appearing for Respondents 1 & 2 and the learned counsel for the third Respondent.

5.The learned counsel appearing for the third Respondent, who is an individual working as Training Officer and Diploma holder has submitted that the Petitioner, who is an Association cannot canvas the Petition and it is open to the individuals, if at all they are aggrieved to challenge the guidelines or any other Government Orders. He further submitted that in G.O.(Ms)No.292, Labour Employment (P1) Department, dated 13.12.2013, the promotion ratio has been fixed as 1:1 between the Degree/Diploma holders, Certificate holders with SSLC (Secondary School Leaving Certificate) and five years of service as Assistant Training Officer and the seniority list had been prepared separately based on qualification,



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in which they were appointed in feeder post of Junior Training Officer.

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6.The learned counsel for the Petitioner submitted that in view of the above policy of the Government, the persons who have less qualification and who is juniors to the degree holders have the better opportunity for promotion and due to which the career prospects of the Petitioner is affected.

7.However, the learned Government Advocate appearing for the Respondents 1 & 2 submitted that the guidelines of the Central Government dated 07.01.2016 is only a recommendation and it is up to the State Government either to consider or to frame its own guidelines in the matter of training and promotion. The said proposal has not been considered by many States and in fact G.O.(Ms)No.292, Labour Employment (P1) Department, dated 13.12.2013 is still in force.

8.Without challenging the G.O.(Ms)No.292, Labour Employment (P1) Department, dated 13.12.2013, the present relief cannot be sought.



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Further the Petitioner has filed his Petition in his capacity as employees Union and as per the well settled position of law in *Tamil Nadu Engineering Diploma Holders Association, Maduravayal by its General Secretary vs. The Secretary to Government, Home (Transport IIA) Department and another [WP.No.13216 of 2009 dated 02.09.2009]*, the individual who are aggrieved due to the Government Order has to challenge and seek the direction and not the Union. Since it is a policy decision of the State Government either to accept the recommendation of the Central Government or not, this Court cannot interfere into such matters. However, it is up to the individuals to work out their remedy in any other appropriate manner known to them.

9.In the result, this Writ Petition is dismissed. No costs.
Consequently, connected Miscellaneous Petition is closed.

18.10.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To
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1.The Additional Chief Secretary to Government
Labour and Employment Department
Secretariat
Chennai 600 009.

2.The Director of Employment and Training
Guindy, Chennai 600 032.



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R.N.MANJULA, J.

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