



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.16710 of 2014, 24506 of 2023
and M.P.Nos.2 and 3 of 2014
and Cont.P.1525 of 2023
and Sub Application No.597 of 2023

W.P.No.16710 of 2014:-

1. A.Periasamy,
2. S.Ignatius Sagayaraj ... Petitioners

-Vs-

1. The Registrar
Bharathiyar University,
Coimbatore – 641 046.

2. N.Selvan ... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, calling for the records pertaining to the minutes of the ordinary meeting of the Syndicate held on 23.05.2014 in so far as “Other Item No. 4” and quash the same.

For Petitioners : Mr.K.M.Vijayan, Senior Counsel
for K.M.Vijayan Associates.

For Respondents
R1 : Mr.K.Shakespeare
R2 : Mrs.N.Kavitha Rameshwar



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W.P.No.24506 of 2023:-

N.Selvan,

... Petitioner

-Vs-

The Registrar
Bharathiar Universtiy,
Coimbatore – 641 046.

....Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondent to issue the pay fixation order to the petitioner for the post of Junior Engineer in view of the proceeding No.E6/2022/11997-10 dated 28.03.2023 and to pay all the arrears.

For Petitioner : M/s.Kavitha Rameshwar
For Respondent : Mr.K.Shakespeare

Cont.P.No.1525 of 2023:-

A.Periasamy

... Petitioner

-Vs-

Dr.K.Murugavel
The Registrar,
Bharathiyar University,
Coimbatore – 641 046.

...Respondent

Prayer:- Contempt Petition filed under Section 11 of the Contempt of Court Act pleaded to punish the respondent for wilful disobedience of the order passed in M.P.No.2 of 2014 in W.P.No.16710 of 2014 dated 26.06.2014 in accordance with the provisions of Contempt of Court Act 1971 and Article 215 of the Constitution of India.



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For Petitioner : Mr.K.M.Vijayan, Senior Counsel
for M/s. K.M.Vijayan Associates

For Respondent : Mr.K.Shakespeare

COMMON ORDER

The W.P.No.16710 of 2014 has been filed challenging the minutes of the proceedings Syndicate dated 23.05.2014, thereby resolved to accept the request of the second respondent for upgrading his post as Junior Engineer with effect from 17.07.2000 notionally in the scale of pay of Rs.6500-200-11100 and the eligible monetary benefit due to him be paid retrospectively without affecting the seniority of the other incumbents in that category.

2. The W.P.No.24506 of 2023 has been filed for direction directing the respondent to issue the pay fixation order to the petitioner for the post of Junior Engineer, in view of the proceeding No.E6/2022/11997-10 dated 28.03.2023 and to pay all the arrears.

3. The Cont.P.No.1525 of 2023 has been filed to punish the respondent for wilful disobedience of the order passed in M.P.No.2 of



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2014 in W.P.No.16710 of 2014 dated 26.06.2014 in accordance with the provisions of Contempts of Court Act, 1971 and Article 215 of the Constitution of India.

4. Heard the learned counsel on either sides and perused the materials available on record.

W.P.No.16710 of 2014:-

5. The first petitioner was appointed as Electrical Helper on 01.08.1985 and the second petitioner was appointed as Electrical Helper on 01.03.1989. The second respondent was appointed as Electrical Helper on 26.06.1990 and he was allotted with an additional duty as High Tension Power Supply Operation in addition to the existing work. The petitioners as well as the second respondent were promoted to the post of Junior Engineers in the year 2007. According to the petitioners, contrary to the condition of employment, the second respondent made a request for retrospective promotion as Junior Engineer from the date of allotment of HT Operation work i.e., with effect from 17.07.2000. However, initially, the said request was rejected by the Syndicate in its meeting held on 23.03.2009. However, in the subsequent meeting, by the



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Proceedings No.271, dated 23.05.2014, the request of the second respondent was considered and it was resolved to upgrade the post of the second respondent as Junior Engineer with effect from 17.07.2000 notionally in the scale of pay of Rs.6500-200-11100 and the eligible monetary benefit due to him to be paid retrospectively without affecting the seniority of the other incumbents in that category.

6. Pending writ petition, this Court granted an interim stay by an order dated 26.06.2014 in M.P.No.2 of 2014 in W.P.No.16710 of 2014. Though the second respondent filed a petition to vacate the stay, it was not listed before this Court. The first respondent also did not file any counter so far. Therefore, the first respondent, by an order dated 28.03.2023, as per the Syndicate resolution dated 05.08.2022, upgraded the second respondent as Junior Engineer (Electrical), with effect from 17.07.2000 with eligible monetary benefit, subject to the final verdict in W.P.No.16710 of 2014. It also stated that the detailed pay fixation order will be issued later.



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7. Therefore the petitioners filed a contempt petition for violation of the interim order passed by this Court in Contempt Petition No.1525 of 2023. Considering the submissions, this Court issued Statutory Notice to the first respondent in W.P.No.16710 of 2014, on 26.07.2023. Immediately, the members of Syndicate, resolved on 01.08.2023 as Item No.165, thereby resolved to constitute an External Expert Committee to review the regulations and Court order related to the issue and place it before the Syndicate for further action. Accordingly the impugned proceedings dated 28.03.2023, which is the subject matter of contempt petition has not been given effect to. That apart, the said order was not given effect to, though the second respondent was given notional promotion with effect from 17.07.2000. The scale of pay of the second respondent is not effected till today and he was not paid any arrears.

8. The second respondent filed a writ petition in W.P.No.24506 of 2023 for direction directing the respondent to issue the pay fixation order to the petitioner for the post of Junior Engineer in view of the proceeding No.E6/2022/11997-10 dated 28.03.2023 and to pay all the arrears. As per the resolution dated 01.08.2023 and the communication of the first



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respondent dated 14.08.2023, the Syndicate resolved to constitute an External Expert Committee to review the regulations and the issues related to the Court order.

9. In view of the above, the impugned order No.271 dated 23.05.2014 of the first respondent is hereby quashed. Accordingly, W.P.No.16710 of 2014 stands allowed. Consequently, connected Miscellaneous petitions are closed. No costs.

10. In view of the resolution dated 01.08.2023, the first respondent had withdrawn the proceedings as not been given effect to the proceedings dated 28.03.2023. Therefore, Cont.P.No.1525 of 2023 is closed. Consequently, connected Sub Application is closed.

11. In view of the communication dated 14.08.2023 issued by the first respondent, thereby resolved to place the matter before the Syndicate for further action with regard to the issues involved in both the writ petitions, the direction sought for in W.P.No.24506 of 2023 cannot be granted. Accordingly, W.P.No.24506 of 2023 is dismissed. No costs.



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12. It is made clear that in view of the resolution dated 01.08.2023, by the Syndicate of the first respondent, the Syndicate of the first respondent is directed to consider the request made by the petitioners as well as the second respondent in W.P.No.16710 of 2014, after giving an opportunity of hearing to them, in accordance with the statutory regulations directed to be placed before the External Expert Committee for further action afresh, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the External Expert Committee is directed to decide the issues involved in these writ petitions afresh, after giving an opportunity of hearing to the petitioners as well as the second respondent in W.P.No.16710 of 2014, in accordance with the statutory regulations, within a period of four weeks thereafter.

22.08.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

mn

To

The Registrar
Bharathiyar University,
Coimbatore – 641 046.

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