



W.P.(MD)No.8446 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)No.8446 of 2018
and
W.M.P.(MD)Nos.7979 and 7980 of 2018**

M.Poonkulali

... Petitioner

Vs.

1. The Commissioner of Technical Education,
Office of the Commissioner of Technical Education,
Directorate of Technical Education,
Guindy,
Chennai - 600 025.

2. The Government Polytechnic College,
Represented by its Principal,
Palai Road West,
Tuticorin District.

3. M.Usha,
Lecturer (Selection Grade),
Directorate of Technical Education,
Guindy,
Chennai - 600 025.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Letter No.23947/P1/2011, dated 07.03.2018 on the file of the first respondent and quash the same as illegal and consequently, direct the first respondent to revise the seniority list relating to the Lecturers by placing the petitioner below Serial No.18 of the seniority list above the third respondent.

For Petitioner : Mr.T.Aswin Rajasimmon

For Respondents : Mr.S.Shaji Bino
Spl. Govt. Pleader for R1 and R2
R3 - Tapal due

ORDER

This Writ Petition has been filed to call for the records of the impugned order in Letter No.23947/P1/2011, dated 07.03.2018 passed by the first respondent, quash the same as illegal and consequently, direct the first respondent to revise the seniority list relating to the Lecturers by placing the petitioner below Serial No.18 of the seniority list above the third respondent.



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2. The case of the petitioner is that she was appointed as Instructor in Electronics and Communication Department on 07.04.1988 at Government Polytechnic College, Konam, Nagercoil and subsequently, her service was regularised as Instructor from the date of initial appointment in terms of the order passed in O.A.No.1075 of 2023 dated 26.03.2003 by the Tamil Nadu Administrative Tribunal and G.O.(Ms)No.351, dated 07.10.2003 was issued implementing the order of the Tribunal. In these circumstances, by G.O.(Ms)No.534, Higher Education Department, dated 19.11.2004, orders were issued promoting 236 qualified Instructors in Government Aided Polytechnic Colleges and Special Institutions as Lecturers with effect from 19.08.1989 and accordingly, she has been promoted as Lecturer in Electronics and Communication Engineering at Government Polytechnic College at Tuticorin. Subsequently, by G.O.(Ms) No.449, Higher Education (I-2) Department, dated 13.11.2008, the Government directed the services of the 24 Lecturers be regularised and accordingly, her service as Lecturer was regularised with effect from 19.08.1989. The Principal Secretary / Commissioner of Technical Education through his proceedings dated 20.04.2009, after completion of ten years of



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services in the post of Lecturer upgraded her to the post of Senior Lecturer with effect from 17.10.1999 and subsequently on completion of ten years of service in the post of Senior Lecturer, her service was upgraded as Head of the Department with effect from 18.10.2009.

3. In these circumstances, the first respondent through his proceedings dated 02.02.2017 has drawn a seniority panel for the post of Lecturer where the petitioner has been placed in Serial No.28, whereas, the third respondent who was appointed on 15.09.1989 is much junior to her, has been placed in seniority No.18 in the said panel. The petitioner has made a representation on 17.02.2017 to the respondents through proper channel seeking revision of seniority by placing her above the third respondent, but the same has not been considered. Challenging the impugned order, the present Writ Petition has been filed.

4. The learned counsel appearing for the petitioner would submit that admittedly, the petitioner has been appointed as Instructor in the year 1988 in the Electronics and Communication Department and subsequently,



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her service was regularised as Instructor from the date of her initial appointment by virtue of G.O.(Ms).No.351, dated 07.10.2003, whereas the third respondent was appointed as Instructor in the year 1989, however, her seniority was fixed above the petitioner is unsustainable. Accordingly, he prayed for allowing the Writ Petition.

5. The learned Special Government Pleader appearing for the official respondents would submit that the petitioner was upgraded as Lecturer with effect from 19.08.1989 and after completion of ten years of service, she was moved as Senior Lecturer with effect from 17.10.1999 and subsequently, after completion of another ten years, she was upgraded as Head of Department with effect from 18.10.2009. While issuing the orders for retrospective regularisation from the date of joining in the Instructor post, the Government has not issued any orders about the seniority. But, while bringing them into regular time scale, orders have been issued in G.O. (Ms)No.334, Education, Science and Technology (I2) Department, dated 28.04.1995 that Department wise seniority can be reckoned from the consolidated list furnished by the Teachers Recruitment Board. He further



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submitted that the once the seniority has been crystallized by the Teachers Recruitment Board, it would be considered for further promotions and no juniors were placed above the petitioner. It is observed that the petitioner assumes that the seniority is fixed based on the date of joining. But it is not correct. Date of joining is not a criteria for fixing seniority. The third respondent who was placed first in the consolidated list would be placed in Serial No.18 and the petitioner would be placed below her seniors, as mentioned in the consolidated list furnished by the Teachers Recruitment Board. So the seniority of the petitioner was settled way back in 1993 and further promotions were also made from the settled seniority.

6. Heard the learned counsel appearing for the petitioner and perused the materials placed before this Court.

7. The facts in the present case are not in dispute. Admittedly, the petitioner was joined as Instructor on contract basis in Electronics and Communication Department on 07.04.1998 at Government Polytechnic College, Nagercoil and subsequently, her service was regularised vide order



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dated 07.10.2003 and thereafter, she acquired various promotions. However, the first respondent has drawn the seniority panel on 02.02.2017 for the post of Lecturer, where the petitioner has been placed in Serial No.28, whereas, the third respondent who was appointed on 15.09.1989 is much junior to her, has been placed in Serial No.18.

8. It is pertinent to note that the Government have decided to regularise the services of 79 Instructors, appointed on contract basis in Government Polytechnic Colleges and Special Institutions and selected by Teachers Recruitment Board prospectively with effect from the date of issue of the order vide G.O.(Ms)No.334, dated 28.04.1995 and accordingly, the Instructors have been regularised from the date of issue of the above said Government Order, in which, the third respondent has been placed under Serial No.1 whereas, the petitioner has been placed under Serial No.13.

9. It is also an admitted fact that during regularisation, several juniors were placed above the petitioner. However, the petitioner has not taken any steps to challenge G.O.(Ms)No.334, Education, Science and



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Technology (I2) Department, dated 28.04.1995. Based on the seniority list contained in G.O.(Ms)No.334 dated 28.04.1995, the present impugned seniority list was published. If at all the petitioner has any grievance mere impleading the third respondent and filing the present Writ Petition challenging the above said G.O is not sufficient. Unless the petitioner challenges the G.O.(Ms)No.334 dated 28.04.1995 in the manner known to law either by giving appropriate representation before the official respondents or by impleading all those juniors who were placed above the petitioner and filing a Writ Petition before this Court, the grievance of the petitioner cannot be redressed. Hence the prayer sought for in the Writ Petition cannot be granted.

10. Accordingly, this Writ Petition is dismissed in the above terms. However, liberty is granted to the petitioner to work out the remedy in the manner known to law. No costs. Consequently, connected Miscellaneous Petitions are closed.

27.02.2023



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NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To

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2. The Principal,
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