



W.P.(MD).Nos.13366 of 2015 and 961 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.13366 of 2015 and 961 of 2016

and

M.P.(MD).Nos.2, 3 and 4 of 2015

and

W.M.P.(MD).No.759, 760 and 761 of 2016

W.P.(MD).No.13366 of 2015:

- 1.Dr.J.Roop Kumar,
Associate Professor in Physics,
Alagappa Government College,
Alagappa Puram, Karaikudi,
Sivagangai District – 630 003.
- 2.Dr.M.Jeyaraj,
Associate Professor in Physics,
Alagappa Government College,
Alagappa Puram, Karaikudi,
Sivagangai District – 630 003.
- 3.Dr.P.Perumal,
Associate Professor in Physics,
Alagappa Government College,
Alagappa Puram, Karaikudi,
Sivagangai District – 630 003.

... Petitioners



W.P.(MD).Nos.13366 of 2015 and 961 of 2016

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary,
Department of Higher Education,
Fort St.George, Chennai – 600 009.
2. The Director of Collegiate Education,
D.P.I.Compound, College Road,
Chennai – 600 006.
3. C.Senchulakshmi
4. S.Navamani
5. T.Alli
6. M.Gandhimathi
7. T.Sampoornam
8. E.Kumarasamy
9. K.Bharathidasan
10. K.Murugeswari
11. J.D.Vigila
12. V.Thangamani
13. S.Fouzia
14. C.S.Suriyanarayanan
15. P.Vijayalakshmi
16. S.Jeya



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17.K.Jothy

18.M.Vanan

19.M.Jayalakshmi

20.N.Rajalakshmi

21.S.Sundaram

22.K.Manoharan

23.T.Vanmathy

24.G.Mookkammal

25.G.Kalai

26.S.Ramesh

27.Arul Thalpathy

28.P.Kalaivani

29.B.Muthulakshmi

30.S.Rasani

31.V.Ranganathan

32.A.S.Gladys

33.V.Gowri

34.Santha Robinson

35.R.Muthulakshmi



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36.R.Catherin Vimala

37.R.Geetha

38.D.Subramani

39.T.S.Tarabai Dhachayani

40.N.Vijayathara

41.A.Chokkappan

42.G.Lalitha Vengateshwari

43.K.Balakrishnan

44.K.Chitra

45.C.Kuthukala Matchika

46.Geetharajan

47.Myrtle Samuel

48.R.Sugirtharani Julina

49.M.Ravichandran

50.C.Umamaheswari

51.E.Palanichamy

52.T.Ponnan

53.R.Thiagarajan

53.P.H.Anand



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55.P.Govindaraju

56.D.Saralathembavani

57.S.Grace Beaula

58.Rigivaneesa

59.P.Parvathi

60.V.Manivannan

61.S.Murthy

62.S.Kalavathy

63.V.Mallika

64.G.Natarajan

65.D.Sumathi

66.N.A.Anbarasan

67.P.Prem Kala Rani

68.M.A.Bhagerathy

69.T.Kolochi

70.R.Vedavalli

71.Selvin Mary

72.Geetharani.R

73.R.Prabhakaran



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74.M.Chinnaiah

75.P.Kulalmolial

76.S.P.Saravanan

77.Savithri Sundar

78.Amutha Pandian

79.Ahalya Balan

80.K.Kalidasan

81.S.Nalini

82.S.Rajendran

83.P.Esther Joice

84.R.Bhavani

85.D.Kannammal

86.D.Greetamary Thenral

87.G.Grace Kamalini

88.R.Malathy

89.V.Usharani

90.D.Ganesan

91.R.Renukadevi

92.R.Manjula



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93.Thamilzhazhi Korkaivendan

94.S.Jegannathan

95.K.Shankar

96.A.Thiruvalluvar

97.K.Murugesan

98.R.Banumathi

99.A.Leela Glory Bai

100.N.Palanirani

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Seniority List of Selection Grade Lecturers/ Associate Professors drawn by the second respondent Director in Rc. No. 7755/ J2/ 2015 dated 10.04.2015, quash the same insofar as it reckons the petitioner's seniority only with reference to the date of their absorption into Government service (01.05.1985), and further direct the first and second respondents herein to redraw the Seniority List forthwith by reckoning the petitioner's seniority w.e.f the dates of their initial regular appointment as Assistant Professors (Dr.J.Roopkumar – 14.12.1981, Dr.M.Jeyaraj – 10.12.1982 and Dr.P.Perumal – 07.01.1983, and thereby placing them at Rank Nos.5, 44 and 46 respectively, and consequently give them promotion as Principals.



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For Petitioner : Mr.K.Ragatheesh Kumar,
For M/s.Isaac Chambers.

For R-1 and R-2 : Mr.D.Sadiq Raja,
Additional Government Pleader.

For R-3 to R-100 : No Appearance.

W.P.(MD)No.961 of 2016:

Dr.J.Roop Kumar

.... Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Department of Higher Education,
Fort St.George, Chennai – 600 009.

2.The Director of Collegiate Education,
D.P.I.Compound, College Road,
Chennai – 600 006.

3.D.Sumathi

4.P.Prem Kala Rani

5.Dr.P.Esther Joice

6.D.Greetamary Thenral

7.K.Srinivasan

... Respondents



W.P.(MD).Nos.13366 of 2015 and 961 of 2016

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the first respondent State Government in G.O.(MS).No.473 (Higher Education-F1) dated 19.11.2015 insofar as Serial Nos. 12, 14, 24, 25 and 30 are concerned (approving the Regular Panel for promotion to the posts of Principal Grade-II for the year 2015-2016) and the consequential promotion orders issued under G.O.(1D) No.290 (Higher Education-F1) dated 15.12.2015, quash the same, and further Direct the first and second respondents herein to give promotion to the petitioner as Principal forthwith by placing him in the said Panel at Serial No.30 by reckoning his seniority at-least from the date of his absorption into Government service i.e., 01.05.1985.

For Petitioner : Mr.K.Ragatheesh Kumar,
For M/s.Isaac Chambers.

For R-1 and R-2 : Mr.D.Sadiq Raja,
Additional Government Pleader.

For R-3 to R-7 : No Appearance.

COMMON ORDER

The Writ Petition in W.P.(MD)No.13366 of 2015 is filed challenging the impugned Seniority List of Selection Grade Lecturers / Associate Professors dated 10.04.2015 insofar as the petitioner's seniority is concerned and to direct the respondents to redraw the seniority with effect from the initial date of appointment as Associate Professors. The appointment of the first petitioner is



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on 14.12.1981, the second petitioner is on 10.12.1982 and the third petitioner is on 07.01.1983 and thereby placing them at Rank Nos.5, 44 and 46 respectively and consequently grant promotion.

2. The brief facts as stated in the affidavit is that the petitioners were working as Assistant Professors in the Alagappa Government Arts College, Karaikudi District. The College was originally established as a Private Aided College and subsequently, it was taken over by the Government. The Alagappa University was established under the Alagappa University Act, 1985 (Tamil Nadu Act 23 of 1985). The erstwhile Alagappa College was also taken over by the Government under G.O.Ms.No.611 Education dated 13.06.1985. The first petitioner was initially appointed on 26.11.1981 against the said sanctioned post and joined duty on 14.12.1981. His service was regularized with effect from 14.12.1981. Likewise, the second petitioner was appointed on 10.12.1982 and his service was regularized with effect from 10.12.1982 and the third petitioner was appointed on 07.01.1983 and his service was regularized with effect from 07.01.1983. After taking over the Alagappa College by the Government, the interse seniority ought to be fixed between the absorbed 90 teaching staff along with the TNPSC appointees, 10(a)(i) appointees and absorption of tutors. As far as the TNPSC appointment is concerned, there



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cannot be any dispute, since their appointment is as per recruitment procedure.

But the inter se seniority is among the Alagappa University teaching staffs, 10(a)(i) appointees and tutors ought to be determined. The Government has passed the Government Order in G.O.Ms.No.344 (Education – F2) dated 27.03.1989, whereby, the petitioners service was absorbed with effect from 01.05.1985. The Government has published inter se seniority whereby, the date of absorption was taken as the date of appointment that is on 01.05.1985. Aggrieved over this, the faculty members repeatedly represented the Government and the Director. The Directorate of Collegiate Education issued guidelines vide dated 15.06.2011, whereby, the faculties are classified into six categories. The three petitioners herein were placed at Rank Nos.51, 53 and 54. After undergoing a special test, the Tutors were promoted as Associate Professors and thereafter they are absorbed in the service. Since there were dispute in the inter se seniority, Writ Petitions were filed before the Principal Bench in W.P.Nos.14485 of 2011 batch. This Court vide order dated 25.01.2012 directed the Government to redraw the seniority list with reference to the dates of initial appointment of the competing candidates except the serial number until 14, since they are TNPSC appointees. The contention of the petitioner is that inspite of this order, again the respondents have redrawn the seniority by fixing the petitioner's seniority from the date of absorption i.e. 01.05.1985.



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However, the 10(a)(i) appointees who were regularized through G.O.Ms.No. 1840 Education Department dated 16.12.1988, were granted seniority from their original date of appointment under 10(a)(i) (which is on various dates). In short the respondents proceeded to fix the seniority as if the 10(a)(i) appointees were appointed in the year 1981 and the petitioners' appointment is in the year 1985. The aggrieved parties agitated before the learned Single Judge in W.P. (MD).No.14485 of 2011 batch, wherein the petitioners herein were also shown as the respondents. After hearing rival submissions, the Learned Single Judge vide order dated 25.01.2012 has directed the respondents as under:

“56. In the result, the Writ Petitions filed in W.P.No.14485, 15159, 15364 of 2011 are allowed and consequently, the impugned orders are set aside insofar as the Serial No.15 onwards in the impugned seniority list. While setting aside the orders impugned, the following directions are issued:

*(i) The first respondent is directed to redraw the seniority list by taking into consideration of the **date of initial appointment** of the petitioners and the private respondents who are arrayed from Serial No.15 onwards in the impugned seniority list.*

(ii) Insofar as the persons shown in the impugned seniority list from 1 to 14 are concerned, their seniority list fixed is upheld as they are admittedly direct recruits appointed through proper process”.

The learned Single Judge has directed the respondents to redraw the seniority list by taking into consideration the date of initial appointment of the



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petitioners and the private respondents who are arrayed as parties from Serial No.15 in the impugned list therein. Pursuant to the order, the aggrieved private respondents had preferred Writ Appeal in W.A.No.1108/2012 and 1109/2012 and the same is pending. In the meanwhile, the respondents have redrawn the seniority list by placing the petitioners below the persons who were appointed under Rule 10(a)(i). The respondents have taken the date of absorption of the petitioners as initial date of appointment and placed the petitioner below 10(a) (i) appointees, thereby the respondents have not followed the direction of the Learned Single Judge. Either the respondents ought to have followed the initial appointment for all the petitioners and the private respondents or they should follow the absorption date as the initial appointment. Again, the same discrepancies crept in the impugned seniority list. Aggrieved over the same, the present Writ Petition is filed.

3. Pending this Writ Petition, the respondents have published interse seniority through G.O.Ms.No.473 dated 19.11.2015 which was communicated by the Directorate of Collegiate Education through proceedings dated 10.12.2015 and the impugned promotion was granted on 15.12.2015. In the G.O. the private individuals are directed to submit objections within two months. The respondents have not waited for two months and immediately



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within two days, have issued the impugned seniority list and they were promoted also. After the publication of the seniority list, the petitioner namely, J.Roop Kumar had immediately filed the Writ Petition in W.P.(MD).No.961 of 2016 Writ Petition on 12.01.2016 challenging the seniority list as well as the promotion granted to the employees mentioned thereunder. Since both the Writ Petitions have common facts, both are taken up together and a common order is passed.

4. Heard Mr.K.Ragatheesh Kumar, For M/s.Isaac Chambers, the Learned Counsel appearing for the petitioner, Mr.D.Sadiq Raja, the Learned Additional Government Pleader appearing for the 1st and 2nd respondents and perused the records.

5. The contention of the petitioner is that the Learned Single Judge has directed the respondents to follow the initial date of appointment for all the stakeholders. The 1st petitioner's initial date of appointment is on 14.12.1981, the second petitioner is on 10.12.1982 and the third petitioner is on 07.01.1983 and their absorption in the Government service is on 01.05.1985. The respondents have taken the absorption date as 01.05.1985 and placed the petitioners below their juniors. The claim of the petitioners is with regard to the



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persons in the Serial Number from 24 to 34. The said persons were appointed subsequent to the petitioners that is in the year 1986 and hence they ought to be placed below the petitioners. But the official respondents have placed the respondents 24 to 34 above the petitioners in the seniority list and were granted promotion. The details of said 24 to 34 respondents are given below:

S.No	Names	Date of original appointment
24	G.Mookkammal	10.09.1982
25	G.Kalai	13.09.1982
26	S.Ramesh	01.10.1982
27	Arul Thalapathy	13.10.1982
28	P.Kalaivani	15.10.1982
29	B.Muthulakshmi	15.10.1982
30	S.Rasani	15.10.1982
31	V.Ranganathan	18.10.1982
32	A.S.Gladys	18.10.1982
33	V.Gowri	20.10.1982
34	Santha Robinson	29.10.1982

On perusing the above details, admittedly the 1st writ petitioner was appointed on 26.11.1981 and prior to the appointment of the aforesaid persons mentioned in the tabulation, therefore this Court is of the considered opinion that the interse seniority prepared by the respondents is erroneous and the respondents have not followed the direction of the Learned Single Judge order dated 25.01.2012 passed in W.P.(MD).No.14485 of 2011 batch.



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6. The next contention of the petitioner is that in some cases the respondents have not followed initial appointment but has unilaterally fixed some date. For this, the petitioner cited the case of one P.Esther Joice. On perusal of G.O.Ms.No.1840 dated 16.12.1988, the said P.Esther Joice in Serial No. 607, her date of initial appointment in 10(a)(i) service is 26.06.1986. The said P.Esther Joice initial date of appointment is 26.06.1986 and absorption date is 16.12.1988, but while granting promotion, the respondents have unilaterally fixed her date of appointment as 07.01.1985 and granted promotion. But the 1st petitioner's initial appointment is 14.12.1981 and the absorption date is 01.05.1985. Hence, the said P.Esther Joice is junior to the petitioner, but the respondents have placed the said P.Esther Joice above the petitioner. If the respondents are taking the initial date of appointment, then the petitioner's initial date of appointment should be taken covering the service rendered in the Alagappa University also. The respondents again committed the same mistake by keeping the petitioner's date of absorption as the date of initial appointment. Whereas, the date of initial appointment for 10(a)(i) were kept as initial appointment itself and the date of absorption was not taken into account. Therefore, there is a clear discrepancy in keeping 10(a)(i) appointment above the petitioner. Actually, 10(a)(i) appointees were absorbed in the regular service through G.O.Ms.No.1840 and it is stated in G.O. that the persons



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covering in the said G.O. would be regularized from the date of issuance of G.O. i.e. on 16.12.1988. But the respondents have implemented the Learned Single Judge order as far as the 10(a)(i) appointees and had granted the date of initial appointment which was mentioned against each person and the same was taken as the initial appointment. But as far the appointees in Annamalai College are concerned, the petitioner's initial date of appointment in the Annamalai is 1981 but the respondents have taken the absorption date as initial appointment i.e. on 1985. The respondents have clearly messed up the entire issue and the Learned Single Judge order was misinterpreted and have placed the Alagappa appointees as the date of absorption whereas, the 10(a)(i) appointees as the date of initial appointment in 10(a)(i) service.

7. This Court is of the considered opinion that the petitioner Roop Kumar was appointed on 14.12.1981, whereas Esther Joice was appointed on 26.06.1986. But the petitioner Roop Kumar date of absorption in Government Service is on 01.05.1985. Therefore, the petitioner should be placed in the seniority list between S.Rajendran (Serial No.23) and Esther Joice (Serial No.24). If the petitioner is kept in between these two persons, the petitioner will be eligible for promoting as Principal. The said Esther Joice was already promoted in the existing vacancies. Therefore, the petitioner ought to



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have been promoted in the existing vacancies as well. Hence, the plea of the respondents that the promotion is not automatic it is against any existing vacancies cannot be entertained, since the subsequent name Esther Joice was considered for promotion and promoted in the existing vacancies. Therefore, the 1st petitioner is entitled to promotion. Since the 1st petitioner is retired from service, he is entitled to promotion notionally. The respondents are directed to confer promotion as well as the service benefits to the 1st petitioner. Based on this, the pensionary benefits shall be modified. As far as the monetary benefits are concerned, 25% of monetary benefits shall be paid to the 1st petitioner. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

8. As far as the second petitioner and the third petitioner is concerned, when their chance for promotion arises, by that time they had attained superannuation and hence the second petitioner and the third petitioner is not entitled to promotion.



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9. With the above direction, the Writ Petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

15.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

- 1.The Principal Secretary,
The State of Tamil Nadu,
Department of Higher Education,
Fort St.George, Chennai – 600 009.
- 2.The Director of Collegiate Education,
D.P.I.Compound, College Road,
Chennai – 600 006.



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S.SRIMATHY, J.

Nsr

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