



W.P.(MD)No.12510 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 17.11.2022

DELIVERED ON : 20.01.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.12510 of 2016

and

W.M.P.(MD)Nos.15833 & 15834 of 2017

C.Iyyamperumal

... Petitioner

VS

The Registrar,
Manonmaniam Sundaranar University,
Tirunelveli – 62701.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondent to prepare and release the Seniority List of Junior Assistants as well as the Assistants for promotion to the post of Superintendent in terms of Rule 35 (aa) of the Tamil Nadu State and Subordinate Service Rules.



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For Petitioner : Mr.S.Govindan

For Respondent : M/S.H.Jasima Yasmin
for M/s.Ajmal Associates

ORDER

This writ petition is filed for Writ of Mandamus, to direct the respondent to prepare and release the Seniority List of Junior Assistants as well as the Assistants for promotion to the post of Superintendent in terms of Rule 35 (aa) of the Tamil Nadu State and Subordinate Service Rules.

2. The contention of the petitioner is that he has completed B.A., Economics in the year 1986 and M.A., Economics in the year 1988. The petitioner was appointed as Tabulator on Temporary Basis in the respondent University on 11.05.1993 and then absorbed as Junior Assistant on 02.11.2002. Then promoted as Assistant on 02.11.2009. In the meantime, the petitioner passed B.Ed., in the year 1994 and acquired Ph.D. in 2016.

3. The contention of the petitioner is that the respondent University



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released the Seniority list of Tabulators and the petitioner's name was in Sl.No.22. Nearly 33 employees were absorbed as Junior Assistant on 02.11.2002 and were promoted as Assistant on 02.11.2009. The petitioner's name should be placed based on the date of birth in the seniority list of Junior Assistants as well as Assistants, but the respondent has not placed in the appropriate place. Even in the minutes of the 135th meeting of the Syndicate Convened on 06.12.2010 had fixed the seniority list of 19 Junior Assistants based on the date of birth in terms of Rule 35 (aa). Therefore, the petitioner's claim is to fix his seniority based on date of birth and submitted a detailed representation on 20.12.2012 and 18.03.2016. Since the same is not fixed, the present writ petition has been filed.

4. The respondent submitted that the claim of the petitioner cannot be accepted, since the Hon'ble Court has considered the case of 6 Tabulators, namely, P.Joseph Baskar, P.Jeyakumari, V.Sankaramahalingam, S.Muthuarasan, P.S.Kalyanakumar, T.Ponvelsamy who had filed a writ petition before this Court in W.P.No.18547 of 2000. The said writ petition was heard along with batch of writ petitions and the Hon'ble Court passed a common order. The claim by some



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of the writ petitioners in the said batch of writ petitions is that the said writ petitioners were appointed as Tabulators. A letter dated 25.07.1994, was issued by the Registrar, Manonmaniam Sundaranar University, directing the said Tabulators to appear for Type Writing Test in connection with selection in the post of Tabulators in the University. The said writ petition is filed challenging the said letter and with a consequential direction to regularize their service in the University. Some of them had prayed for Mandamus to regularize them in the post of Tabulators. The said existing Tabulators filed writ petitions to quash the typing exam and some sought to absorption them and the claim of those persons in the said writ petitions was considered by this Court. The six writ petitioners in W.P.No.18547 of 2000 were degree holders and passed Government Technical Examinations in English Type Writing Lower Grade, Higher qualification in Type writing Tamil and English has been prescribed by University only in 1997 and all the petitioners have satisfied the amended qualification. After considering the case of these writ petitioners, the Court directed the University to follow the scheme arrived by the University in the Minutes of Meeting of the Governors held on 11.12.2001. Based on this finding, the Court directed the respondent



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University by passing the following order:

“10....I am also satisfied that for the abovementioned reasons, petitioners in W.P.No.18547 of 2000 are entitled to get preference over the other petitioners.

(i) The Minutes of the Meeting of the Convener Committee held on 11.12.2001 regarding regularization of Tabulators issue is recorded.

*(ii) Among the 26 sanctioned posts of Junior Assistant which are kept vacant, the petitioners in W.P.No.18547 of 2000 (six persons) are to be considered **in preference** to the others as per the resolution of the syndicate dated 14.11.1997.*

(iii) The University is to prepare a list of Tabulators appointed by them and they will be absorbed in terms of resolution No.1 dated 11.12.2001 on the basis of seniority taking into account the date of first entry in the University as Tabulators.

Net result: W.P.No.18547 of 2000 alone is allowed, whereas the other writ petitions are ordered on the above terms. No costs. All the connected W.M.Ps are closed.”

The respondents submitted, based on this direction, the said six persons were kept as senior above the present writ petitioner and similarly placed like the petitioners.

5. The learned Counsel appearing for the petitioner contented that even if



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“The University is to prepare a list of Tabulators appointed by them and they will be absorbed in terms of resolution No.1 dated 11.12.2001 on the basis of seniority taking into account the date of first entry in the University as Tabulators.

On perusing the Resolution No.1 dated 11.12.2001, it is stated that

“(i) The Tabulators will be absorbed as and when Budgetary vacancies arise and such absorption will be on the basis of seniority list prepared by taking into account the date of first entry in the University as tabulators.”

8. The resolution states the seniority list ought to be prepared so that the senior person could be absorbed first as and when the Budgetary vacancies arises. It is the seniority list for the purpose of absorption and not the seniority list for the purpose of promotion. In the seniority list for absorption the said six persons shall be given preference and be kept first, appointment order shall be issued first, thereafter if any vacancies are available then the other persons shall be accommodated. The respondent has erroneously come to the conclusion that the Hon'ble High Court has directed to place the said six persons above the petitioner



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for the purpose of promotion as well.

9. From the above it would be absolutely clear that the petitioner and the similarly placed persons are entitled to the claim that the seniority list ought to be prepared based on date of birth for the purpose of seniority list for the purpose of promotion. Therefore, the respondent cannot cite the said order passed in W.P.No. 18547 of 2000 and decline the seniority for the purpose of promotion to the petitioner. Hence, the respondent is directed to prepare a fresh seniority list based on the date of birth of all the eligible candidates and publish fresh seniority list and follow the seniority list for the subsequent promotion. If any promotion is granted by following the earlier list the same shall be reverted, after issuing opportunity to the stake holders. The said exercise shall be completed within a period of 6 weeks from the date of receipt of a copy of this order.

10. With the above said direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

20.01.2023

Index : Yes / No

Internet : Yes

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To

The Registrar,
Manonmaniam Sundaranar University,
Tirunelveli – 62701.



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S.SRIMATHY, J

jbr

Pre-delivery Order made in
W.P.(MD)No.12510 of 2016

20.01.2023