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W.P(MD)Nos.8569 of 2016 and 12032 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :07.06.2023

CORAM :

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P(MD)Nos.8569 of 2016 and 12032 of 2017

and

W.M.P(MD)Nos.6873 and 6874 of 2016

and

W.M.P(MD)Nos.4763, 9267, 12032, 4764, 4761, 4762 of 2017

and

W.M.P(MD)No.22190 of 2018

W.P(MD)No.8569 of 2016:

S.Sidhardhan

... Petitioner

vs.

1.The State of Tamil Nadu,
Represented by the Secretary to Government,
Higher Education (11) Department,
Fort St. George,
Chennai – 600 009.

2.The Director of Technical Education,
O/o.the Directorate of Technical Education,
Chennai – 600 025.

3.S.Jeyanthi,
Professor,
Department of Civil Engineering,
Government College of Engineering,
Bodinayakanur,
Theni District.



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4.V.Kumar,
Professor,
Department of Civil Engineering,
Thanthai Periyar Government Instituted of Technology,
Vellore,
Vellore District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned orders issued by the first respondent Government under G.O.(Ms)No.98-Higher Education(II) Department, dated 22.04.2016 (approving the Panel for the post of Professors of Civil Engineering for the year 2014-2015) and the consequential order of promotion in G.O.(Ms).No.99 Higher Education Department dated 22.04.2016 and the consequential proceedings in Letter No. 8134/11/2016-3 dated 21.11.2016 and the consequential G.O.Ms.No.27-Higher Education (II) Department, dated 27.07.2018 (Rejection the petitioner's appeal against the panel) quash the same and further direct the 1st and 2nd respondents herein to give promotion to the petitioner forthwith as Professor of Civil Engineering with all attendant benefits on par with the petitioner's juniors w.e.f. 22.04.2016.

(Prayer amended vide Court order dated
29.01.2021 made in W.M.P(MD)No.22189 of 2018 in
W.P(MD)No.8569 of 2016 by MMSJ & SAIJ)

W.P(MD)No.8569 of 2016:

S.Sidhardhan

... Petitioner

VS.



W.P(MD)Nos.8569 of 2016 and 12032 of 2017

1.The State of Tamil Nadu,

Rep. by its Secretary,
Department of Higher Education,
Fort St. George, Chennai – 600 009.

2.The Director of Technical Education,

Office of the Directorate of Technical Education,
Guindy, Chennai – 600 025.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records relating to the impugned amendment issued by the 1st respondent in G.O.(Ms)No.77-Higher Education (B1) Department, dated 20.04.2017 and the consequential notification thereof dated 10.05.2017 in the Tamil Nadu Government Gazette and quash the same insofar as its retrospective operation from 05.05.2010 is concerned.

(In Both W.Ps)

For Petitioner

: Mr.Isaac Mohanlal, Senior Counsel for
Mr.P.Krishnasamy

For R-1 & R-2

: Mr.Veera Kathiravan,
Additional Advocate General, assisted by

Mr.S.P.Maharajan,
Special Government Pleader

For R-3

: Mr.V.Karthikeyan

For R-4

: Mr.K.Samidurai



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COMMON ORDER

(Order of the Court was made by R.SUBRAMANIAN, J.)

W.P(MD)No.8569 of 2016 has been filed to quash the impugned order issued by the first respondent Government under G.O.(Ms)No.98-Higher Education(II) Department, dated 22.04.2016 (approving the Panel for the post of Professors of Civil Engineering for the year 2014-2015) and the consequential order of promotion in G.O.(Ms).No.99 Higher Education Department, dated 22.04.2016 and the consequential proceedings in Letter No.8134/11/2016-3, dated 21.11.2016 and the consequential G.O.Ms.No.27-Higher Education (II) Department, dated 27.07.2018 (Rejection the petitioner's appeal against the panel) and to direct the respondents 1 and 2 herein to give promotion to the petitioner forthwith as Professor of Civil Engineering with all attendant benefits on par with the petitioner's juniors w.e.f. 22.04.2016.

2. W.P(MD)No.12032 of 2017 has been filed to quash the impugned amendment issued by the 1st respondent in G.O.(Ms)No.77-Higher Education (B1) Department, dated 20.04.2017 and the consequential



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notification, dated 10.05.2017 in the Tamil Nadu Government Gazette insofar as its retrospective operation from 05.05.2010, is concerned.

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3. The Principal Secretary to Government, Higher Education Department, Secretariat, Chennai, has filed an affidavit pursuant to our directions, dated 24.04.2023. Paragraph No.13 of that affidavit reads as follows:

“13.It is submitted that, out of four, three Associate Professors who were promoted as Professors viz., Tmt.A.Kasthuri,Thiru.V.Sridharan and Thiru.S.Natarajan and one professor who was promoted as Principal i.e. Tmt. Esther Annlin Kala James have retired from service. Hence, cancellation of their promotion orders will lead to recovery of their pension and further a saving clause has been incorporated in the rule amendment. Therefore, in similar lines with the promotion granted to four Associate Professors as Professors and one Professor as Principal without Ph.D., the stand of the Government is to grant promotion to the petitioner with retrospective effect on parwith his juniors as per his prayers.”



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4. In view of the stand taken by the Government, the bone of contentions between the parties remains resolved. We do not see any reason to pass any further orders in these writ petitions. The writ petitions are closed. No Costs. Consequently, connected miscellaneous petitions are closed. The Government will comply with the terms of Paragraph No.13 of the affidavit filed by the Principal Secretary to Government and issue an order at the earliest since the petitioner is to retire on 15th July 2023.

(R.SUBRAMANIAN, J.) & (L.VICTORIA GOWRI, J.)

07.06.2023

Index : Yes / No

Neutral Citation : Yes / No

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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

pm

ORDER MADE IN
W.P(MD)Nos.8569 of 2016 and 12032 of 2017

DATED :07.06.2023