



Writ Petition No.18976 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	02.09.2024
Pronounced on	05.11.2024

CORAM

THE HONOURABLE MR. JUSTICE BATTU DEVANAND

W.P. No. 18976 of 2019

Boopathy

... Petitioner

vs.

1.The State of Tamilnadu,
represented by its Secretary,
Department of Higher Education,
Secretariat, Chennai – 600 009.

2.The Director of Technical Education,
Guindy, Chennai – 25.

... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records in Letter(D) No. 409, dated 26.12.2018, on the file of the first respondent and quash the same as illegal, incompetent and without jurisdiction and further direct the respondents to upgrade the service of the petitioner as Associate Lecturer from 01.01.2001 with all consequential monetary and service benefits as per G.O.Ms.No.534, Higher Education(C2) Department, dated 19.11.2014 and in view of G.O.Ms.No.1146, Education (1) Department, dated 25.09.1992.

For Petitioner : Mr. M. Muruganantham



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For Respondents : Mr. R. Neethiperumal,
Government Advocate

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records in Letter (D) No. 409, dated 26.12.2018, on the file of the first respondent and quash the same as illegal, incompetent and without jurisdiction and further direct the respondents to upgrade the service of the petitioner as Associate Lecturer from 01.01.2001 with all consequential monetary and service benefits as per G.O.Ms.No.534, Higher Education(C2) Department, dated 19.11.2014 and in view of G.O.Ms.No.1146, Education (1) Department, dated 25.09.1992.

2.The brief facts, which led to the filing of the present Writ Petition, can be stated hereunder:

The petitioner was appointed as a Skilled Assistant in the year 1977 through Employment Exchange in Institute of Printing and Technology as permanent employee. The Institute of Printing and Technology is a part of Directorate of Technical Education and called as Special Institutions. In the year 1981, the Government Order dated 28.04.1981, the first respondent has



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stated that, the persons already in service will be promoted as Associate Lecturers as and when they acquire the qualification namely a B.E., Degree or 10 years of experience in the feeder category. The Instructor post is one of the feeder category for the post of Associate Lecturer.

3. Again by G.O.Ms.No.1081, dated 19.08.89, recruitment for the post of instructor was discontinued. But the Government kept on recruiting instructors despite a Government order was passed in 1989. In the meantime, the petitioner has completed Diploma course in Printing Technology in the year 1990. But there was no B.E. (Printing Technology) when the petitioner has completed diploma course.

4. In the meantime, ignoring the petitioner's permanent service, the institution started to regularise the contract employees placing them above the petitioner's position. Hence, 7 permanent staff, including the petitioner had approached the Tamil Nadu Administrative Tribunal in O.A.Nos.2044 to 2050 of 1993. By order of the Tribunal, the petitioner has been appointed as Instructor from 28.12.1995. In fact, even before the petitioner approached the Tribunal, the Government has passed G.O.Ms No.1146, dated 25.09.1992 to the effect that the "instructors, who are all acquired 5 years of



experience would be treated as equivalent to a B.E., Degree for the purpose of promotion".

5. Thus, on 01.01.2001, the petitioner has acquired 5 years experience as instructor and become eligible to the post of Associate Lecturer. Even in the year 2001 itself, several persons were upgraded to the post of Associate Lecturer ignoring the petitioner's candidature. Despite several representations, the petitioner's case was not considered. In fact, by G.O (Ms) No.534, Higher Education (C2) Department, dated 19.11.2004, 236 persons were upgraded to the post of Associate Lecturer including contract labourers, and 5 of them were possessed with Diploma qualification in Printing Technology. The 6 other persons, who have filed original applications along with the petitioner, were also upgraded to the post of Associate Lecturer and they were retired as Senior Associate Lecturers. Unfortunately throughout the petitioner's service, his case was not considered and he was forced to stagnate in the post of Instructor and attained superannuation on 31.05.2013, as an Instructor. In the mean time, the petitioner has approached this court twice in 2014 as well as 2018 by filing W.P Nos.34582 of 2014 & W.P. No.38886 of 2015 challenging the



rejection order of the first respondent as well as the second respondent. This

Court has directed the respondents to consider the petitioner's case.

However, the first respondent has rejected the petitioner's claim in Letter (D) No.409, dated 26.12.2018 without giving any valid reason. Hence, the petitioner has constrained to file the present Writ Petition.

6. A detailed counter affidavit has been filed by the respondents stating that based on the above orders, the petitioner has submitted a representation on 19.09.2018 and necessary proposals have been sent to the Government Vide CTE's Lr No.51829/B4/2015 dated 31.10.2018. The Government rejected the petitioner's claim vide Govt Lr (D) No 409/Higher Education (C2) Department Dated 26.12.2018. Against the said Order, the Petitioner has filed the present Writ Petition.

7. It is also stated that the Government have issued orders in G.O (Ms) No.1081, Education(J1) Department, dated 19.08.1989, changing the hierarchy of teachers in the Government Polytechnic and Special Institutions. The post of Instructor was dispensed with, keeping Assistant Lecturer as entry level teaching post and B.E., First Class in the relevant



Branch was prescribed as the minimum educational qualification for the post of Lecturer.

8. It is also stated that in G.O., (Ms) No.1170, Education Science and Technology (I) Department, dated 13.12.1994, the Associate Lecturer post was redesigned as Lecturer. Based on the orders issued in G.O (Ms) No.1081, Education Department, dated 19.08.1989, the adhoc rules were issued in GO (Ms) No.597, Higher Education Department, dated 01.12.1997 for the post of Lecturer, prescribing First Class Bachelor's degree as a minimum eligibility for the post of Lecturer. It is further stated that an amendment was issued for the existing Instructors that irrespective of the class obtained in B.E., they will be promoted as Lecturer as and when they acquire the required qualification.

9. It is also stated in the counter affidavit that the petitioner has completed only Diploma in Printing Technology, as the petitioner did not possess B.E., Degree, he is not entitled for upgradation as Lecturer. In the G.O. (Ms) No.1146, Education (I) Department, dated 25.11.1992, it is stated that Instructors in Engineering subjects with B.E or other equivalent degree



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having three years of service as Instructors and the Instructors in Engineering subjects with Diploma includes 3 years of service as Instructors and 2 years of service in the post of Workshop Instructors, Draughtsman and other equal cadre posts in the Polytechnics and Special Institutions be upgraded as Associate Lecturer. The above Government Order applicable only to the persons rendered 5 (3+2) years service has to completed before 19.08.1989.

10. It is also stated that in G.O. (Ms) No.534, Higher Education (C2) Department, dated 19.11.2004, the Government has promoted 238 Instructors, who were working in the Government Polytechnic colleges and Special Institutions as Lecturers from 18.08.1989 or from the date of their initial appointment or from the date of acquiring the required qualification whichever is less. The petitioner did not possess the essential B.E/B.Tech., qualification in Printing Technology for promotion as Lecturer. Hence, the petitioner's claim was not considered as per the said Government order, since it is not applicable to the petitioner.

11. It is also stated in the counter that in G.O.(Ms) No.421, Higher



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Education (C2) Department dated 30.09 2008, it has been ordered that
Instructors appointed before 19.08.1989 with Diploma qualification having 5
years as Instructor are eligible for Lecturer upgradation. But the petitioner
was appointed as Instructor only on 28.12.1995 and hence, the above said
order is not applicable to the petitioner.

12. It is also averred in the counter affidavit that the petitioner had
already filed four Writ Petitions with a similar prayer as, to upgrade him as
Lecturer. Out of four Writ Petitions, orders were issued in three Writ
Petitions by this Court, directing the respondents to consider the claim of the
petitioner. As per the direction of this Court, necessary reply was sent to the
petitioner stating the facts and eligibility criteria for the upgradation of
Lecturer post. Even though, the petitioner was not entitled to hold the post of
Instructor, as per the directions of this Court, he was appointed as Instructor
by relaxing the relevant Rules.



13. In view of the above factual position, the learned Government Advocate appearing for the respondents has submitted that though, the petitioner was not satisfied with the Rules in vogue for the upgradation of Lecturer post, again and again he has filed Writ Petitions with the similar prayer. However, there is no violation of the Rules and hence, the claim of the petitioner cannot be entertained. Further, the letter issued by the first respondent is legal, competent and within the jurisdiction and hence, the petitioner is not entitled to the relief as prayed for and hence, he prays to dismiss the Writ Petition.

14. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the material placed on record.

15. It is an admitted fact that the petitioner was initially appointed as Skilled Assistant in the year 1977. He has been appointed as Instructor on 28.12.1995. The Government of Tamil Nadu issued G.O.Ms.No.1146, Education (1) Department, dated 25.11.1992 wherein, the following amendment in G.O.Ms.No.721, Education Department, dated 28.04.1981 was made, as extracted herein under: -

AMENDMENT



In the said G.O. for the existing para 3 (1), the following shall be substituted: -

“(i) Instructors in Engineering subjects with B.E. or other equivalent degree having three years of service as Instructors and the Instructors in Engineering subjects with Diploma having 5 years service as Instructors, which includes 3 years of service as Instructors and two years of service in the post of Workshop Instructors, Draughtsman and other equal cadre posts in the Polytechnics and Special Institutions be upgraded as Associate Lecturer in the scale of pay of Rs.700-1300 in the respective branches in the Polytechnics and Special Institutions.”

16. As per the said amendment, the Instructors in Engineering subject with Diploma having five years service as Instructor, which includes three years of service as Instructors and two years of service in the post of Workshop Instructors, Draughtsman and other equal cadre posts, be upgraded as Associate Lecturer in the respective branches in the Polytechnics and Special Institutions. The petitioner has completed Diploma in the Printing Technology in the year 1990. As per the orders of the Administrative Tribunal in O.A. No. 2044 of 1993 and batch, the petitioner had been appointed as Instructor on 28.12.1995. As such, he has acquired 5 years experience as Instructor on 01.01.2001 and he became eligible to the



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post of Associate Lecturer, as per G.O.Ms.No.1146, Education (1) Department, dated 25.11.1992. In G.O.Ms.No.534, Higher Education (C2) Department, dated 19.11.2004, the Government has decided and directed that the 236 Instructors are presently working in the Polytechnic Colleges and the Special Institutions as Lecturer from 19.08.1989 or from the date of their initial appointment or from the date of acquiring their required qualification whichever is later by upgrading the Instructors posts as Lecturers by upgrading them. While issuing the said G.O., the request of the Instructors who are appointed till 01.01.1997 was accepted by the Government.

17. It is an admitted fact that the recruitment to the post of Instructors was virtually stopped after 01.12.1997. In the present case, the petitioner was appointed as Instructor on 28.12.1995, much prior to 01.12.1997. Under these circumstances, when the State Government decided to upgrade the Instructors who were appointed till 01.12.1997, denying the claim of the petitioner who was appointed as Instructor on 28.12.1995, is unjustified.



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18. Under these circumstances, it is to be held that as the petitioner became eligible for upgradation by 01.01.2001, he cannot be denied the benefit of the G.O.Ms.No.1146, Education (1) Department, dated 25.11.1992 and G.O.Ms.No. 534, Higher Education (C2) Department, dated 19.11.2004.

19. For the above stated reasons, this Writ Petition is allowed with the following direction:-

i) The Letter (D) No. 409 dated 26.12.2018 issued by the first respondent is hereby quashed.

ii) The respondents are directed to upgrade the service of the petitioner, as Associate Lecturer from 01.01.2001 with all consequential, monetary and service benefits in terms of G.O.Ms.No.1146, Education (1) Department, dated 25.11.1992 and G.O.Ms.No.534, Higher Education (C2) Department, dated 19.11.2004.

20. There shall be no order as to costs.

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Index : Yes/No
Neutral Citation : Yes/No
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To

- 1.The Secretary,
State of Tamilnadu,
Department of Higher Education,
Secretariat, Chennai – 600 009.

- 2.The Director of Technical Education,
Guindy, Chennai – 25



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BATTU DEVANAND, J.

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