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W.P.No.7533 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.7533 of 2016

R.Kalimuthu

... Petitioner

VS.

1.The Director of Technical Education,
Guindy,
Chennai – 600 032.

2.The Principal,
Government College of Engineering,
Salem – 636 011.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 1st respondent No.32599/A5/2014 dated 11.03.2015 and quash the same and consequently directing the respondents to fix the seniority of the petitioner on par the immediate junior Mr.Jagadeesan who was promoted on 07.10.1991 as Instructor as per seniority / eligibility with all monetary benefits and re-fixation of his monthly pension amount within a stipulated time.

For Petitioner : Mr.B.Ramesh Kumar

For Respondents : Mr.C.Jayaprakash
Government Advocate

* * * * *



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ORDER

This writ petition is filed to call for the records relating to the proceedings of the 1st respondent No.32599/A5/2014 dated 11.03.2015 and quash the same and consequently directing the respondents to fix the seniority of the petitioner on par with his immediate junior Mr.Jagadeesan who was promoted on 07.10.1991 as Instructor as per seniority / eligibility with all monetary benefits and re-fixation of his monthly pension amount within a stipulated time.

2.The petitioner was initially appointed as Artisan Class II (Carpentry) on 11.12.1967 and joined duty on 16.12.1967. The petitioner was thereafter promoted as Instructor Workshop on 21.01.1985. The petitioner was specifically promoted as Special Class Artisan on 26.02.1985. According to the petitioner, on 07.10.1991, the petitioner's Junior one M.Jagadeesan was promoted as Chief Instructor over looking the petitioner's seniority. So also another Junior Mr.Kaliappan, was promoted as Chief Instructor. The petitioner retired from service as an Instructor on 31.12.1997. Prior to his retirement, the petitioner made several representations to the respondents to grant him promotion and other



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benefits. The petitioner also filed a writ petition in W.P.No.26029 of 2024 for a direction to the respondents to consider his representation dated 28.07.2014 to the 1st and 2nd respondents with regard to his notional promotion from the date of promotion of his immediate junior, Mr.Jagadeesan, who was promoted on 07.10.1991 as per his seniority with all monetary benefits, and to re-fix of his monthly pension within six weeks. This Court vide order dated 24.09.2014 disposed of the writ petition with a direction to the respondents to consider the petitioner's representation dated 28.07.2014 on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of the order. As the respondents did not consider and did not comply with the aforesaid order of this Court, the petitioner filed a Contempt Petition in Cont.P.No.646 of 2015. During the pendency of the Contempt proceedings the first respondent passed the impugned order and therefore the contempt petition was closed. Aggrieved by the impugned order, the petitioner filed the above writ petition.

3.The respondent filed a detailed counter stating that in 1984 steps were taken by the Directorate of Technical Education to fill up the vacant posts of Instructors as per the trades in the Government Engineering



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Colleges the details of which are as follows:

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SI.NO.	Colleges	Instructor (Workshop) vacancy	Trade
1.	Government College of Technology, Coimbatore	1	Foundry
2.	Government College of Engineering, Tirunelveli	1	Carpentry
3.	Alagappa Chettiar College of Engineering and Technology, Karaikudi	1	Carpentry
4.	Alagappa Chettiar College of Engineering and Technology, Karaikudi	1	Fitter
5.	Government College of Engineering, Tirunelveli	1	Fitter
6.	Government College of Technology, Coimbatore	1	Fitter
7.	Government College of Engineering, Tirunelveli	1	Machinist

4.The petitioner qualified in ITI course in the Carpentry Trade and was placed 4th in the Seniority list and therefore, the petitioner was not promoted against the two vacancies for the carpentary trade in the instructor post. The petitioner was not promoted in his trade as Instructor (Workshop), because of his rank in seniority. Whereas the petitioner's



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junior Mr.M.Jagadeesan who was placed in the trade of Fitter was promoted against the three vacancies in the Fitter Trade. The petitioner was later promoted as Instructor Workshop in the trade of Carpentry vide the proceedings of the Director of Technical Education Proceedings No.73764/A2/1984 dated 21.01.1985. As the petitioner's juniors were promoted earlier than the petitioner the further promotions were also given to them earlier than the petitioner and hence the claim of the petitioner that his seniority was overlooked could not be accepted. The respondent therefore prayed that there were no merits in the writ petition and the same deserved to be dismissed.

5.The learned counsel for the petitioner submitted that the petitioner was the senior most person and he was entitled to promotion under the relevant rules. The learned counsel further submitted that the respondent failed to note that on 07.10.1991 when the petitioner's junior Mr.M.Jagadeesan was promoted as Chief Instructor, the petitioner was also eligible for promotion and therefore, the petitioner should have been appointed alongwith Jagadeesan, his junior.

6.The learned counsel for the respondent on the other hand submitted



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that the petitioner could not be compared with the said Jagadeesan for the simple reason that the trade of the petitioner was completely different from that of Jagadeesan. As Mr.Jagadeesan was found fit and there were three vacancies in his trade he was promoted earlier than the petitioner in his trade of Fitter. Consequently promotions as Artisans and Chief Foreman Instructor were given to Mr.M.Jagadeesan and Mr.Kaliappan owing to their seniority in Instructor post. The learned counsel for the respondent prayed to dismiss the writ petition.

7.I have heard both the learned counsels and I have perused the materials placed on record.

8.The main grievance of the petitioner is that he was senior to his Junior Mr.M.Jagadeesan, who was promoted on 07.10.1991 as Chief Instructor and therefore the petitioner was entitled for promotion as Chief Instructor on par with the Junior. It is seen that the petitioner was qualified in Carpentry Trade, having obtained ITI certificate in it. It is seen that for the post of Instructor under the Carpentry Trade there were two vacancies. The two vacancies in Carpentry trade were filled on the basis of Seniority in the said trade and as the petitioner was 4th in Seniority he was not



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accommodated. At the same time in the Fitter trade there were three vacancies and Mr.Jagadeesan, who belonged to the Trade of Fitter was promoted as Instructor workshop as against the three vacancies in the Trade Fitter on the basis of his seniority. The petitioner was subsequently promoted as Instructor on 21.01.1985 long after Jagadeesan was promoted as Instructor. Because Mr.Jagadeesan was promoted earlier to the petitioner, subsequent promotions were given to him on the basis of his seniority and so the contention of the petitioner cannot be sustained. The petitioner does not dispute that he belongs to the Carpentry Trade, while so, the petitioner cannot have any grievance against Jagadeesan who belonged to Fitter Trade and who was given promotion based on the vacancy position in his Fitter Trade and therefore I find no merits in the writ petition and hence the same is dismissed. However, there shall be no order as to costs.

04.09.2024

Index : Yes/No

Internet : Yes/No

Speaking order / Non-speaking order
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To

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N.MALA,J.

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