



W.P.No.2366 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.03.2024

PRONOUNCED ON : 08.04.2024

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.2366 of 2023 and
W.M.P.No.2441 of 2023

R.Mourougane

... Petitioner

Vs.

1. The Vice Chancellor,
Puducherry Technological University (PTU),
(Erstwhile Pondicherry Engineering College),
Pillaichavady,
Puducherry-605 014.

2. The Registrar,
Puducherry Technological University (PTU),
(Erstwhile Pondicherry Engineering College),
Pillaichvady,
Puducherry-605 014.

3. The Principal,
(Erstwhile Pondicherry Engineering College),
Puducherry Technological University (PTU),
Pillaichavady,
Puducherry-605 014.



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4. The Chief Secretary to Government,
Government of Puducherry,
Chief Secretariat Beach Road,
Puducherry-605 001.

5. The Secretary to Government (Education),
Government of Puducherry,
Chief Secretariat,
Beach Road,
Puducherry-605 001.

6. The Under Secretary to Government (Educational),
Pondicherry Engineering College,
Chief Secretariat, Beach Road,
Puducherry-605 001.

7. The Member Secretary -cum-Director of Higher & Technical,
Education,
PIPMATE complex,
Lawspet Post,
Puducherry-605 008.

8. S.Rajaram

9. R.Baskaran

10. K.Vivekanandan

...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 order Vide No.PEC/Estt(nT)/E.7/Speaking Order/2021/1580 dated 08.10.2021 corrected as 25.10.2021 passed by the 3rd respondent and quash the same and consequently direct the respondent Nos.1 to 7 to promote the petitioner to the post of "Mechanic" with effect from 25.10.2000 on par with one R.Kannaparamathma &



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others with all Monetary and Non-Monetary Service benefits including, seniority, granted to them and also direct the respondents No.1 to 7 to grant consequential promotion to the petitioner to the post of "Junior Instructor" with effect from 23.01.2014 as it was granted to the said R.Kannaparamathma.

For petitioner : Mr.Prakash Adiyapadam

For respondents 4 to 7 : Mr.Syed Mustafa,
Special Government Pleader (Puducherry)

ORDER

This writ petition has been filed challenging the order dated 08.10.2021 corrected as 25.10.2021 passed by the 3rd respondent thereby rejected the request made by the petitioner seeking promotion to the post of Mechanic with effect from 25.10.2000 and consequential promotion to the post of "Junior Instructor" with effect from 23.01.2014 with all monetary and service benefits.

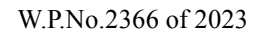
2. The petitioner was appointed as Helper-Group D in the Pondicherry Engineering College on daily wage basis. Thereafter, on 20.10.1995, his service was regularized. Thereafter, he had completed the course of "Electrician" in the National Industrial Training Institute



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(NITI) in the month of February/March-2000 and obtained certificate on 07.07.2000. It was submitted to the 3rd respondent and requested to enter the same into his service records as his additional educational qualification for consideration at the time of promotion. Thereafter, he was promoted to the post of Electrician Group-C with effect from 11.12.2003. The next avenue of promotion from the post of Electrician is Mechanic which shall be filled up by way of Direct recruitment to the tune of 50%.

2.1. The requisite qualification as per the Recruitment Rules for the said post is that for direct recruitment, the candidates should possess Diploma in concerned branch of Engineering or National Trade Certificate from an Industrial Training Institute with apprenticeship training or its equivalent such as a Higher Secondary (vocational) pass or Technical Higher Secondary pass in the concerned trade and at last with three years experience in the respective field. In case of promotion, the candidates must have rendered minimum five years of service among Group-D category and minimum three years of service among Group-C



2.2. While being so, on 23.10.2000, respondents 3 to 7 were named as first Departmental Promotion Committee (DPC) and failed to consider the petitioner for promotion including his co-worker one Kannaparamathma. However, the person who had joined into the service i.e., 8th respondent along with the petitioner on the same date, was given promotion to the post of Mechanic. It was justified that the 8th respondent was given promotion not based on NITI certificate and was based on vocational certificate of welding by relaxing the educational qualification. However, he was given promotion in the Department of Electrical and Electronics Engineering. Therefore, this



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petitioner approached this Court challenging the promotion list dated 25.10.2000 in W.P.No.20135 of 2000. Simultaneously his co-worker Mr.R.Kannanparamathma also filed writ petition in W.P.No.19078 of 2000 challenging the list of promotion dated 25.10.2000. While pending writ petition, the respondents assured that he will be given promotion to the post of Mechanic and as such, the said writ petition was dismissed for default.

2.3. In fact, the 3rd respondent by its communication dated 02.11.2011 assured that the petitioner would be considered for promotion in the near future. His co-worker also pursued his writ petition and the same was allowed, thereby directed the respondent to consider his case for the promotion to the post of Mechanic with effect from 25.10.2000. After the direction issued by this Court, the respondents convened Review Department Promotion Committee (RDPC) and promoted him to the post of Mechanic with effect from 25.10.2000 with all benefits. However, the petitioner was not considered for any promotion as assured by the respondents. Therefore, the petitioner submitted representation



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and the same was not considered. Hence, once again the petitioner approached this Court in W.P.No.2606 of 2014 seeking promotion to the post of Mechanic on par with his juniors with all benefits. While pending writ petition, once again the respondent convened Department Promotion Committee for Non-Teaching staff on 07.02.2014. Thereafter, on 12.02.2014, the petitioner was promoted to the post of Mechanic in the Department of Electronic & Instrumentation Engineering (EIE) with effect from 23.01.2014. In the meanwhile, on the very same date, his colleague namely Mr.R.Kannnanparamathma was promoted to the post of Junior Instructor in the Department of Electrical & Electronic Engineering from the post of Mechanic.

2.4. Though, the petitioner is Senior to the said Mr.R.Kannanparamathma and he had completed requisite educational qualification in National Institute of Industrial Training Institute and obtained certificate in the month of February/March-2000 and the same was entered into the service records as on 07.07.2000, the petitioner was not considered for promotion. Whereas the said



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Mr.R.Kannanparamathma had completed All India Trade Test of craftsmen only in the month of July 2000 i.e., three months later than the petitioner and he was promoted to the post of Mechanic and subsequently promoted to the post of Junior Assistant. In W.P.No.2606 of 2014, this Hon'ble Court passed an order dated 18.11.2020 whereby the respondents are directed to consider the petitioner for promotion to the post of Mechanic on par with the said Mr.R.Kannanparamathma, if otherwise he found eligible. In pursuant to the said order, the petitioner submitted representation and even then, the order was not complied with. Therefore, the petitioner was constrained to file contempt petition in Cont.P.No.649 of 2021. This Court issued statutory notice to the contemnor. Therefore, in a haste and hurried manner, the representation submitted by the petitioner seeking promotion on par with his Junior Mr.R.Kannanparamathma with effect from 25.10.2000 was rejected.

3. The learned counsel for the Respondents 3 to 7 submitted that the name of the petitioner is placed at Sl.No.53. Therefore, he has no legitimate right to claim promotion with effect from 25.10.2000. No



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Junior to the petitioner was promoted on 25.10.2000 as Mechanic. As per the cut-off date i.e., 30.06.2000, the petitioner was not eligible for promotion to the post of Mechanic as stated supra. The petitioner's writ petition was dismissed for default. The petitioner failed to look after his writ petition, only for the reason that the respondents 3 to 7 had given specific assurance for the promotion of the petitioner to the post of Mechanic. In fact, the petitioner is senior in completion of Industrial Training Institute Certificate course. The said Mr.Kannanparamathma had completed the said course on the very same date. The petitioner as well as Mr.R.Kannanparamathma filed writ petitions simultaneously by challenging the promotion list dated 25.10.2000. Whereas the said Mr.Kannanparamathma has continued and pursued his writ petition and succeeded by an order dated 16.11.2012. The relevant portion of the order extracted hereunder :

"16. In my view, the form of certificate may not be very relevant moreso when the case relates to one of promotion. The certificate produced by the petitioner clearly states that he has passed the Electrician Trade Test in the All India Trade Test or Craftsmen, conducted by the Government Industrial Training Institute, Pondicherry. Therefore, the second respondent has adopted a hyper technical approach by refusing to entertain the



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certificate dated 17.10.2000. Admittedly, the DPC was convened on 30.10.2000 and on the said date the petitioner has qualified himself in the All India Trade Test and he had passed the test in July 2000. Therefore, in the absence of any legal sanction for the cut off date 30.06.2000, it has to be hold that he certificate produced by the petitioner dated 17.10.2000 should have been accepted as proof of the petitioner having acquired the necessary qualification. The respondents have not been able to answer the specific plea of discrimination pointed out by the petitioner in cases relating to promotion to the post of plumber. Therefore, the case of the petitioner ought to have been considered for promotion on the date of when his juniors, the respondents 4 to 7 were considered.

17. In that view of the matter, the petitioner is entitled to succeed in the writ petition. Accordingly, the second respondent is directed to consider and promote the petitioner to the post of Mechanic, with effect from 25.10.2000, the date on which the respondents 4 to 7 were promoted, within a period of four weeks from the date of receipt of copy of this order. Since, the petitioner has not discharged his duties in the promoted post from 25.10.2000, the petitioner shall not be entitled to monetary benefits payable to the said post for the said period. However, the period from 25.10.2000, shall be reckoned for all other purposes and for computation of other service benefits in the promoted post of Mechanic."

4. In pursuant to the said direction, the said Mr.Kannanparamathma was promoted to the post of Mechanic with effect from 25.10.2000. Unfortunately, the writ petition filed by the petitioner was dismissed for default, since the petitioner failed to pursue



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his writ petition on the assurance given by the respondents 3 to 7 for his promotion to the post of Mechanic. That apart, subsequent writ petition was filed by the petitioner in W.P.No.2606 of 2014 by an order dated 18.11.2020 wherein this Court issued direction to the respondents and the relevant portion of the said order is extracted hereunder:

"8. Learned Counsel for the petitioner submitted that the Respondents may be directed to consider the case of the petitioner for appointment to the post of Mechanic in the light of the order dated 16.11.2012 passed by this Court in W.P.No.19078 of 2000, within a reasonable time.

9. Learned Additional Government Pleader (Pondy) appearing for the Respondents submitted that, the petitioner's name would be considered for promotion to the post of Mechanic on par with the said KannaParamathma, if he is otherwise found eligible.

10. Having regard to the submissions made by the learned counsel on either side this Court directs the Respondents herein to consider the petitioner's name for promotion to the post of 'Mechanic', if he is otherwise found eligible and pass appropriate orders on merits and in accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed."

5. This court specifically directed the respondents to consider the case of the petitioner and the name of the petitioner was considered for promotion to the post of Mechanic if otherwise found eligible. Only



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because of the petitioner filed contempt petition and issued statutory notice by this Court, the claim of the petitioner was not considered and rejected by the impugned order dated 08.10.2021.

6. In view of the above, the impugned order passed by the 3rd respondent dated 08.10.2021 corrected as 25.10.2021 cannot be sustained and liable to be quashed. Accordingly, the impugned order passed by the 3rd respondent dated 08.10.2021 corrected as 25.10.2021 is quashed. The respondents 3 to 7 are directed to promote the petitioner to the post of Mechanic with effect from 25.10.2000 on par with his co-worker Mr.R.Kannanparamathma with all monetary and service benefits forthwith. It is also made clear that the petitioner is entitled for consequential promotion to the post of Junior Instructor with effect from 23.01.2014.



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7. With the above direction, this writ petition is allowed.

Consequently, connected miscellaneous petition is closed. No costs.

08.04.2024

Index : Yes / No

Speaking order /Non-speaking order

Neutral Citation : Yes/No

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To
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1. The Vice Chancellor,
Puducherry Technological University (PTU),
(Erstwhile Pondicherry Engineering College),
Pillaichavady,
Puducherry-605 014.
2. The Registrar,
Puducherry Technological University (PTU),
(Erstwhile Pondicherry Engineering College),
Pillaichvady,
Puducherry-605 014.
3. The Principal,
(Erstwhile Pondicherry Engineering College),
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Puducherry-605 014.
4. The Chief Secretary to Government,
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Puducherry-605 001.
5. The Secretary to Government (Education),
Government of Puducherry,
Chief Secretariat,
Beach Road,
Puducherry-605 001.
6. The Under Secretary to Government (Educational),
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7. The Member Secretary -cum-Director of Higher & Technical,
Education,
PIPMATE complex,
Lawspet Post,
Puducherry-605 008.



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G.K.ILANTHIRAIYAN, J.
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