



W.P.(MD).No.13207 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.13207 of 2024

and

W.M.P.(MD)No. 11688 of 2024

J.Jenarathinam

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep. by the Secretary to Government (Higher Education)
Higher Education Department, Secretariat, Fort St. George,
Chennai-600 009.

2.The Director of Technical Education,
Directorate of Technical Education,
Chennai-600 025.

3.The Deputy Director of Technical Education,
Directorate of Technical Education,
Chennai-600 025.

4.The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai-600 025.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the 2nd & 3rd respondents dated 01.12.2021 in Proceedings No. 41210/B.N.1/2019 and 4th respondent dated 20.04.2022 in Letter



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No.13872/B.N.1/2022 insofar as rejecting the promotional post from Workshop Instructor to Foreman Instructor to the petitioner is concerned and quash the same and consequently direct the respondents to promote the petitioner to the post of Foreman Instructor notionally with consequential increments on par with juniors with effect from 17.12.2021 who are receiving Scale of Pay of Rs.35400-112400 (Level 11) and pay all monetary service and pension benefits within a time frame to be fixed by this Court.

For Petitioner : Mr.C.Murugavel

For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

Heard Mr.C.Murugavel, learned counsel for the petitioner and Mr.T.Amjadkhan, learned Government Advocate for the respondents.

2. This Writ Petition has been filed seeking to quash the order dated 01.12.2021 and 20.04.2022 insofar as rejecting the promotional post from Workshop Instructor to Foreman Instructor to the petitioner is concerned and consequently direct the respondents to promote the petitioner to the post of Foreman Instructor notionally with consequential



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increments on par with juniors with effect from 17.12.2021 who are receiving Scale of Pay of Rs.35400-112400 (Level 11) and pay all monetary service and pension benefits.

3. Mr.C.Murugavel, learned counsel for the petitioner submitted that the petitioner who had suffered an order of rejection of his promotion to the post of Foreman Instructor has filed this Writ Petition challenging the order of rejection, dated 01.12.2021 and 20.04.2022. In the impugned order, it is observed that the petitioner does not have qualification for promotion to the post of Foreman Instructor.

4. As per G.O.(Ms).No.118 Higher Education (B1) Department dated 25.06.2019, the following qualifications are prescribed for the post of Foreman Instructor:

(5) Qualifications:-

(a) Age:- No person shall be eligible for appointment to the post by direct recruitment, if he has completed or will complete 36 years of age on the first day of July of the year in which the vacancy is notified.

(b) Other Qualification:- No person shall be eligible for appointment to the post unless he possesses the following qualifications, namely:-



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- (i) (a) *A Diploma in any branch of Engineering / Technology; and*
- (b) *Practical experience for a period of not less than one year in a recognized Workshop / Lab;*
- (ii) (a) *An Industrial Training Institute Certificate / National Trade Certificate / National Apprenticeship Training Certificate in any trade; and*
- (b) *Practical experience for a period of not less than five years in a recognized Workshop / Lab.*

5. Mr.C.Murugavel, learned counsel for the petitioner further submitted that the petitioner does not have any Diploma or ITI certificate as prescribed under G.O.(Ms).No.118 Higher Education (B1) Department dated 25.06.2019. However, the petitioner has got Technical High School Leaving Certificate for having undergone Technical High School Course for 3 years.

6. As per the Special Rules for Tamil Nadu Technical Educational Subordinate Services issued vide G.O.(Ms).No.2100, Education Department, dated 18.09.1981, for the Foreman Instructor the following qualifications have been prescribed:



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4. Foreman Instructor: Promotion, direct recruitment and transfer:-

(i) A diploma in Mechanical Engineering and practical experience for a period of not less than three years on a recognized Engineering workshop; or

(ii) A Technical High School Certificate awarded by the State Board of Technical Education and Training, Tamil Nadu, and practical experience in a position not below the rank of a skilled operator in a recognized Engineering Workshop for a period of not less than five years; or

(iii) An industrial school certificate awarded by the department of Industries and Employment and Training, Madras, and practical experience in a recognized Engineering workshop for a period of not less than 7 years;

Provided that the experience referred to above should have been gained in one or more of the following trades, namely:-

(a) Carpentry and / or pattern making; (b) Fitting; (c) Smithy; (d) Foundry; (e) Machineist; (f) Welding; (g) Tool-maker; and (h) Turner



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7. Since the petitioner has got Technical High School Leaving Certificate, he claims that he has got the prescribed educational qualification to be appointed to the post of Foreman Instructor. The petitioner joined as Skilled Assistant in the Government Polytechnic, Tuticorin on 01.09.1984 and regularized in the said post on 15.04.1986. Thereafter, he was promoted to the post of Workshop Instructor on 30.07.2007 and retired on 30.05.2022 as a Workshop Instructor (Special Grade). Even though the petitioner was eligible for promotion to the post of Foreman Instructor and his juniors who were appointed after him were all given with promotion, the respondents by citing the G.O. (Ms).No.118 dated 25.06.2019, where the educational qualification of Technical High School mentioned in G.O.Ms.No.2100 was ignored, the petitioner chance of getting promotion was deprived of.

8. Mr.T.Amjadkhan, learned Government Advocate for the respondents submitted that in the year 2009, the Special Rules for Tamil Nadu Technical Educational Subordinate Service was amended and through which the educational qualification for the Foreman Instructor has been prescribed as Diploma in Mechanical Engineering with



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practical experience for a period of not less than 3 years in any recognized Workshop or an Industrial Training Institute certificate/ National Trade Certificate/National Apprenticeship Training Certificate; and Practical experience for a period of not less than seven years in a recognized Engineering Workshop/Mechanical Laboratory and had gained experience in any of the specialized category. Since the petitioner qualification in Training Technical High School does not finds place in the qualification prescribed subsequent to the amendment brought in the year 2009 in G.O.(Ms).No.220 Higher Education Department dated 06.07.2009, the petitioner's qualification has not been considered for the post of Foreman Instructor. The petitioner has joins the service in the year 1984 much prior to the amendment which was brought subsequently and has come into force in the year 2009. The petitioner has been retired as Workman Instructor for want of qualification to be promoted as Foreman Instructor.

9. Since the petitioner joined in the year 1984, as per the rules which were in force with the legitimate expectation that his qualification will entitle him to the post of Foreman Instructor by promotion, the



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respondents could have considered the same without giving retrospective effect to the amendment which was brought in the year 2009. If the petitioner had joined any time subsequent to the amendment in the year 2009 in any of the feeder cadre or directly recruited to the Foreman Instructor, it is right to state that the new rules would apply to the case. The petitioner who has joined Skilled Assistant has rendered nearly 36 years of service. In the 36 years, he was able to get one promotion for the post of Workshop Instructor. The petitioner's long services and the experience was not properly utilized by giving him promotion by taking into account of those rules which were in force at the time when he was appointed. As stated already, the petitioner's appointment has not been made as per the new rules, which was brought in the year 2009 and the petitioner is neither a direct recruitee to any other post as per the new rules.

10. In view of the above stated reasons, this Writ Petition is **allowed**. The impugned order dated 01.12.2021 in Proceedings No. 41210/B.N.1/2019 and 20.04.2022 in Letter No.13872/B.N.1/2022 are set aside. The respondents are directed to consider the petitioner's claim



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and promote him to the post of Foreman Instructor with effect from 17.12.2021, on par with his juniors who have been promoted to the post of Foreman Instructor, with notional effect from the date of promotion till his retirement and monetary impact for the purpose of pension. An order in this regard is directed to be passed by the respondents by refixing the terminal benefits and pensionary benefits of the petitioner by according his promotion to the post of Foreman Instructor as stated above and issue orders. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

21.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:

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Higher Education Department, Secretariat, Fort St. George,
Chennai-600 009.
- 2.The Director of Technical Education,
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R.N.MANJULA, J.

Nsr

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