



W.P.No.2104 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2025

WEB COPY

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P.No.2104 of 2019

PTV.Bhuvaneswari,
Professor,
Department of Electronics Engineering,
Madras Institute of Technology,
Anna University,
Chennai – 600 044.

... Petitioner

Vs.

1. The Registrar,
Anna University,
Chennai – 600 025.

2. The Syndicate,
Represented by the Vice Chancellor,
Anna University,
Chennai – 600 025.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of certiorarified mandamus to call for the records of the second respondent pertaining to Resolution No.249.15 dated 03.09.2018 communicated vide letter Ref. No.:61861/PR21/04 dated 08.10.2018 of the first respondent as well as the records of the first respondent pertaining to Procs No.001/PR15/2014 dated 23.01.2018 and the Procs.No.011/PR20/14 dated 15.02.2018 and quash the same in so far as the stipulation that it takes effect only from date of joining and consequently,



W.P.No.2104 of 2019

direct the first respondent to fix the pay and seniority of the petitioner on par with the other Professors in the first respondent university selected vide notification Adv.No.:001/PR 15/2014 dated 07.01.2014 and grant attendant benefits to the petitioner.

For Petitioner : Mr.Richardson Wilson
for M/s.Wilson Associates

For R1 : Mr.U.Baranidharan

For R2 : No appearance

ORDER

Heard Mr.Richardson Wilson, the learned counsel for the Petitioner and Mr.U.Baranidharan, the learned counsel for the first respondent.

2. The petitioner has filed this writ petition challenging the order of the second respondent passed in Resolution No.249.15 dated 03.09.2018 and the orders of the first respondent in Procs No.001/PR15/2014 dated 23.01.2018 and the Procs.No.011/PR20/14 dated 15.02.2018 and to direct the first respondent to fix the pay and seniority of the petitioner on par with the other Professors in the first respondent university selected vide notification Adv.No.:001/PR 15/2014 dated 07.01.2014 and grant attendant benefits to her.

3. In response to the notification issued by the first respondent on



W.P.No.2104 of 2019

07.01.2014 calling for the candidates for the post of 'Assistant Professor',

WEB COPY

'Associate Professor' and 'Professor' in various departments of Anna University, the petitioner had applied to the post of 'Professor' in Electrical and Electronics Engineering Department by claiming reservation under Scheduled Caste (SC) Arunthathiyar community. However, the petitioner's candidature was rejected by citing the reason that the educational qualification possessed by her is not compatible to the qualifications prescribed in the notification for the post of 'Professor'. The petitioner had possessed the degrees in Bachelor of Engineering (B.E.) in Electrical and Electronics Engineering and Master of Engineering (M.E.) in Applied Electronics and Ph.D. in Networking. However, the respondent University demanded that the petitioner ought to have possessed the degree in B.E. in Electronics and Communication Engineering.

4. The petitioner had filed a writ petition in W.P.No.28167 of 2017 challenging the above rejection and claimed that the notification had omitted to mention the relevant branch of B.E. for the post notified. The writ petition has been dismissed and the Writ Appeal filed by the petitioner challenging the same was allowed by confirming that the petitioner's qualification was very much compatible as per the rules for the post called for. The Special



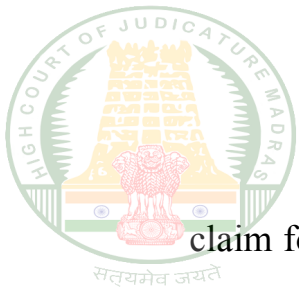
W.P.No.2104 of 2019

WEB COPY

Leave Petition filed by the respondent University also got dismissed by confirming the judgment of the Writ Appellate Court. Now the petitioner has filed the present writ petition stating that had the respondent University did not accept her qualification as the required qualification for the post called for, she would not have missed her appointment in the year 2014 itself along with the other appointees.

5. Mr.Richardson Wilson, the learned counsel for the petitioner, submitted that once the petitioner's qualification is found to be satisfactory and compatible to the requirements of educational qualification sought in the notification, then it would operate and relate back to the date of notification and hence the petitioner's placement should be given effect from the date of the notification and the petitioner's seniority should be counted on par with the other appointees who were appointed in pursuant to the notification.

6. No doubt the petitioner had raised a claim for eligibility for appointment to the post called for in the earlier notification issued by the respondent University in the year 2014 and she found herself qualified to the said post in view of the orders passed by the Writ Appellate Court which was later confirmed by the Hon'ble Supreme Court also. But the petitioner's



W.P.No.2104 of 2019

claim for seniority by placing her along with the 2014 batch of selection has to be analysed and the position of law already settled in this regard.

7. Reliance was placed on the judgment of the Hon'ble Supreme Court in ***Sadhana Singh Dangi and Pinki Asati and others*** reported in (2022) 12 SCC 401, wherein it is held that the candidates cannot be held responsible for the anomaly that has arisen in the later appointments and hence they have been ordered to be given with due seniority from such deemed date of appointment and not from the actual date of their appointment. The relevant part of the above judgment is extracted hereunder:

“... 26. We now turn to the issue presented by Mr. Rungta, learned Senior Advocate, for our consideration It is quite clear that the candidates represented by Mr. Rungta were placed at a higher position in the Select List but unfortunately they were not given appointments along with the candidates who were at a lower level. These candidates cannot be held responsible for the anomaly which has arisen as a result of their late appointments. In order to do complete justice, we, therefore, direct:

26.1. All candidates who were at higher positions in merit but were appointed later shall be deemed to have been appointed on the earliest of the dates when their juniors or candidates at lower levels were appointed.

26.2. Their seniority shall be reckoned from such deemed date of appointment and not from their actual date of appointments.



W.P.No.2104 of 2019

26.3. *The issue of probation for all categories of candidates shall be considered together as one single batch and the issue of probation shall not be segregated amongst the members of the batch.*

26.4. *All such candidates who were at higher levels of the revised list shall be entitled to their salaries and emoluments for the period of about seven months for which they were deprived of service."*

8. In the above judgment reference was made to the judgment in ***Rajesh Kumar Daria Vs. Rajasthan Public Service Commissioner reported in (2007) 8 SCC 785***. As per the facts of the said case one of the candidate had been omitted to be appointed in the 2001 selection despite he has been selected. The reason for not accommodating the above candidate was due to selection of excess women candidates and not on the fault on the part of the candidates. Had there not been selection of any excess women candidates than the number of women candidates required to be selected, Rajesh Kumar Dharia would have got appointed in the year 2001 selection itself. Despite the very same candidate got selected in the subsequent 2005 year examination, considering the above fault done during the selection process, that petitioner was given with the benefit of getting the lowest position in the earlier recruitment year 2001. By applying the same logic in ***Sadhana Singh Dangi's case (cited supra)***, the Hon'ble Supreme Court has granted the relief to those candidates whose appointments were delayed due

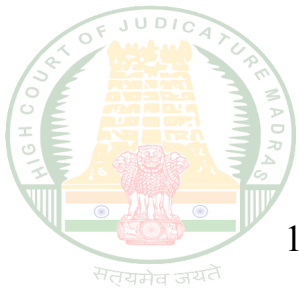


W.P.No.2104 of 2019

to the fault on the part of the respondents and to re-work their seniority by placing them below the last candidate of the selection year.

9. Mr.U.Baranidharan, the learned counsel for the respondents, submitted that no seniority can be fixed for a candidate who has not joined the service and the seniority would start to operate only on and from the date of appointment and date of appointment could be the relevant factor for considering the seniority.

10. Reference was made to the judgment of the Hon'ble Supreme Court in *K.Meghachandra Singh and others Vs. Ningam Siro and others* reported in (2020) 5 SCC 689, wherein it is made clear that the date of joining will be taken into account for seniority. However the above case does not relate to the delayed appointment due to the fault on the part of the selecting authority. There are earlier such instances where appointments were delayed due to the fault on the part of the respondent authorities. The seniority of the candidates so selected has been given with the relief of recasting his / her seniority to the year of recruitment rather than the year of appointment.

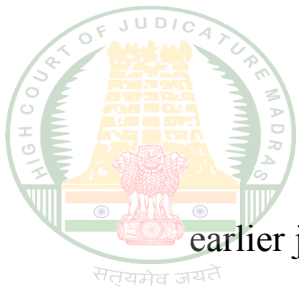


W.P.No.2104 of 2019

WEB.COM

11. On perusal of the orders passed in the Writ Appeal filed by the petitioner with regard to her qualification, it is seen that the Writ Appellate Court completely agree with the claim made by the petitioner and found fault with the respondent University for having given a wrong interpretation to the Rules. In the discussion of the above judgment passed in the Writ Appeal, it is observed that as per the reply given by All India Council for Technical Education (AICTE), the petitioner was found to be eligible to the department for which she has been recruited and the underlying principle of the guidelines in notifying with regard to the relevant qualifying degree suitable for the post, is in view of interdisciplinary nature of emerging technologies. As the University has not updated itself and had relied on the old Government Order in G.O.Ms.No.95 Higher Education (C2) Department, dated 05.05.2010 and omitted to mention in the notification about the relevant branch, the petitioner's qualification is found to be relevant to the post for which the order she applied.

12. Since the petitioner has been dragged to the Court unnecessarily and was forced to undergo the mental agony of facing a litigation and waited for four years by allowing her juniors to become senior to her, I feel appropriate order should be taken to recast her seniority in the light of the



W.P.No.2104 of 2019

earlier judgments passed in case involving similar facts.

WEB COPY

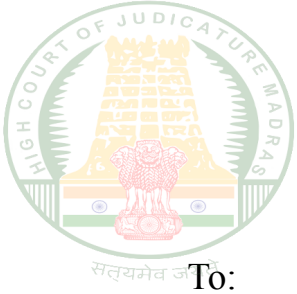
13. In view of the above observation, the Writ Petition is allowed and the order of the second respondent in Resolution No.249.15 dated 03.09.2018 communicated vide letter Ref. No.:61861/PR21/04 dated 08.10.2018 of the first respondent and the order of the first respondent pertaining to Procs No.001/PR15/2014 dated 23.01.2018 and the Procs.No.011/PR20/14 dated 15.02.2018, are set aside and the respondents are directed to place the petitioner as a last candidate of the selection year 2014 of her batch and to rework the seniority list. However, it is made clear that the petitioner shall not be eligible for any monetary benefit attached to her revised seniority and the benefit due to recasting the seniority will be only for the purpose of promotion and pensionary benefits, if any. No costs.

04.02.2025

Index : Yes
Neutral citation : Yes
Speaking Order
bkn

R.N.MANJULA, J.

bkn



W.P.No.2104 of 2019

To:

WEB COPY

1. The Registrar,
Anna University,
Chennai – 600 025.
2. The Vice Chancellor,
The Syndicate,
Anna University,
Chennai – 600 025.

W.P.No.2104 of 2019

04.02.2025