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W.A.No.2236 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	<i>08.07.2025</i>
<i>Delivered on</i>	<i>16.09.2025</i>

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN
W.A.No.2236 of 2022 and
C.M.P.No.16925 of 2022

The Principal,
Pondicherry Engineering College,
Puducherry-605 014.

.... Appellant

Versus

Dr.S.Palanivel,
Professor,
Department of Civil Engineering,
No.18, 1st Cross
Rajiv Gandhi Nagar,
Pondichery-605 014.

.... Respondent

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order dated 10.01.2019 made in W.P.No.33988 of 2018.

For appellant(s): Mr.R.Syed Mustafa

For Respondent(s): Mr.Ramya Muralikumaran



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JUDGMENT

(By *J.Nisha Banu,J.*)

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This Writ Appeal has been directed against the order dated 10.01.2019 passed by a learned single Judge of this Court in W.P.No.33988 of 2018.

2. The brief facts, which led to the filing of the present appeal are as follows:

2.2 The respondent herein started his career as an Academician in the year 1993 having joined as a Lecturer in Civil Engineering Department of Regional Engineering College, Warangal, Andhra Pradesh, which is presently known as NIT. Thereafter, he joined the service as a Scientist Grade IV in Structural Engineering Research Centre, CSIR, Chennai on 19.3.1997 and worked till 25.11.1999. Later, he joined the appellant institution and put in six years of service in a grade which is equivalent to the grade of a Lecturer. According to the respondent, by virtue of the guidelines of AICTE, minimum length of service for eligibility to move into the grade of Lecturer (Senior scale) is four years for those with Ph.D and



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five years for those with M.Phil/M.E./M.Tech. and also to get benefits under the career advancement scheme. The guidelines also provide to count past service of the candidate rendered in an equivalent post outside the institution in respect of Diploma Level Technical Institution. The case of the respondent is that he is eligible for career advancement scheme and his past services rendered by him as a Lecturer in Warangal Regional Engineering College and also as a Scientist in Structural Research Centre (CSIR) totalling about six years have to be taken into consideration as past service which are equivalent to the post of Lecturer. However, by proceedings dated 24.3.2004, the appellant informed the respondent that the counting of past service for other equivalent post is still continued to be kept in abeyance for want of approval from the Ministry of Human Resources Development. Challenging the same, the appellant filed a Writ Petition in W.P.No.10049 of 2004 before this Court. During pendency of this Writ Petition, it appears that the respondent was promoted by merely counting the services rendered by him in the appellant institution, to the stage -2, (i.e.) Lecturer (Senior Scale).



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3. This Court, on consideration of rival submissions, vide a detailed order, dated 26.11.2009, allowed the Writ Petition, directing the appellant to grant the benefits of Career Advancement Scheme to the respondent by taking his past service as per the guidelines of AICTE with all benefits including the seniority and monetary.

4. However, the above said order was not complied with by the appellant herein, which prompted the appellant to move a Contempt Petition in Cont.Petn.No.1648 of 2010, which came to be closed by this Court, vide order dated 11.01.2011, after taking note of the proceedings dated 07.01.2011 of the appellant, which was produced before the Court, wherein, it has been mentioned that *“as regards seniority, in the post of Lecturer, he will be considered as senior most among Lecturers recruited in the Staff Selection (Teaching) Committee meeting held on 03.05.1999 and overall revised seniority of lecturers in the department of Civil Engineering will be issued shortly”*. From then onwards, the respondent has been under bona fide impression that his seniority will be set right as per the directions this Court by duly taking into consideration of his past



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services as per AICTE Regulations.

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5. According to the respondent, he had completed Ph.D. on 10.02.2014 and became eligible for promotion to the next level, i.e. Stage 5, viz., Professor and he also made an application on 29.01.2014, seeking for promotion to the post of Professor with effect from 10.02.2014 as per AICTE Regulations, 2012 with back wages and service benefits. However, the respondent was denied the promotion based on the minutes of the Staff (Teaching) Selection committee Meeting held on 31.10.2014 and thereby, his candidature was rejected on the ground of not securing API score. Challenging the said minutes and denial of his promotion, the respondent filed a Writ Petition in W.P.No.23411 of 2015.

6. According to the respondent, in violation of the orders of this Court, instead of appointing him as HOD of Civil Engineering Department, the appellant appointed one Dr.R.Saravanan, who is junior to him in service. Later, the appellant issued a tentative seniority list vide Memorandum dated 18.09.2018, placing the respondent much below in the



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seniority list, without giving any due consideration to the orders passed by this Court in W.P.No.10049 of 2004, dated 26.11.2009 and in Cont.Petn.No.1648 of 2010, dated 11.01.2011, wherein, this Court has specifically directed to issue seniority list after taking into account of his past service.

7. The respondent raised objection on 25.09.2018 to the tentative seniority list. However, the appellant, vide Memorandum dated 12.10.2018 confirmed the tentative seniority list issued on 18.09.2018. Challenging the same, the respondent filed the Writ Petition in W.P.No.33988 of 2011 before this Court.

8. The learned Judge, on consideration of rival submissions, vide order, dated 10.01.2019 allowed the Writ Petition and directed the appellant to refix the seniority of the respondent in terms of the above said order, dated 26.11.2009 passed in the Writ Petition and the order dated 11.01.2011 passed in the Contempt Petition. Questioning the same, the present Writ Appeal has been preferred by the appellant.



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9. Mr.R.Syed Mustafa, learned counsel appearing for the appellant

would submit that the AICTE had abolished the cadre of Lecturer with effect from 01.01.2006 vide notification dated 05.03.2010 and recommended only 3 cadres, viz., Asst.Professor, Associate Professor and Professor and thereby, the seniority in the post of Lecturer became obsolete. He would also submit that pursuant to the orders of this Court, in the seniority list dated 04.01.2019, the seniority of the respondent was maintained as assured by the appellant vide office order dated 07.01.2011 and assigned rank 8 to him and further, in the seniority list of Asst.Professors/Associate Professors, the seniority of the respondent was maintained at Sl.No.3 consequent to the re-designation to the post of Associate Professor. He would further submit that the seniority list for Professors was prepared and maintained based on the date of appointment/promotion to the post of Professor and since the petitioner acquired Ph.D. only on 10.02.2014, he was ranked at 11 in the seniority list while the Professors who were directly recruited, were placed above the promotees under Career Advancement Scheme. Therefore, there is no discrepancy in the seniority list as on date maintained by the appellant and



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the learned counsel would submit that the learned single Judge without taking note of these aspects, allowed the Writ Petition even at the admission stage itself without providing opportunity to contest the matter by filing a counter affidavit. He also pointed out that the writ petition filed by the respondent in W.P.No.23411 of 2015 seeking to quash the Minutes of Staff (Teaching) Selection Committee Meeting, rejecting the respondent's candidature based on the API Score, came to be dismissed by this Court vide order 12.06.2024. With these submissions, the learned counsel sought for setting aside the order of the learned single Judge.

10. The learned counsel appearing for the respondent would submit that there is no infirmity in the order passed by the learned Judge in order to interfere with the same since this Court already issued specific directions while allowing the Writ Petition in W.P.No.10049 of 2004 and in compliance to the said directions, the appellant also issued proceedings dated 07.01.2011 and recording the same, even contempt petition filed against the appellant, came to be closed, however, again, the appellant issued seniority list in violation of the orders of this Court and taking note



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of the same, the learned Judge has rightly allowed the Writ Petition, which deserves no interference and hence, the learned counsel sought for dismissal of the Writ Appeal.

11. Heard the learned counsel for the appellant and the respondents and perused the entire materials available on record.

12. In the earlier Writ Petition in W.P.No.10049 of 2004, the respondent sought for grant of benefit of career advancement by counting his past service, including service and monetary benefits. This Court, on consideration of rival submissions, vide order dated 26.11.2009, passed a detailed order and operative portion of the said order is extracted as under:

“14. It is not in dispute that the petitioner had worked as lecturer in Regional Engineering College Warangal and as a scientist Grade IV at Structural Engineering Research Centre, CSIR, Chennai for more than six years. When UGC and AiCTE regulations unequivocally stated that past services of the candidates have to be considered for Career Advancement Scheme to move into cadre of Senior scale, the first respondent institution is bound to follow the same. As rightly pointed out by



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Mr.V.Perumal, learned counsel for the petitioner as well as Mr.N.Muralikumaran, learned Central Government Standing counsel, the first respondent institution cannot insist the guidelines from the second respondent. The regulations are subordinate legislation and they are to be treated as statute. When such is the position, the stand of the second respondent that guidelines are to be approved by a resolution of first respondent's general body has no leg to stand and it has to be negated. If such a stand is to be approved, it would be ultravires of UGC Act and AICTE and it will not be in the interest of development and acceleration of Career Advancement scheme for higher education in this country. It is seen from petitioner's typed set of papers that Anna University, Chennai counted past service of one Mr.R.Bhuvaneshwaran for career advancement as early as on 10.8.1999. When that is the position, there cannot be any prohibition for the first respondent to follow the same.

15.

16. As rightly pointed out by Mr.Perumal, learned counsel for the petitioner that the first respondent institute itself has taken into consideration the past services of Dr.Nagarajan, Mr.S.Gothandaraman and Dr.Paramanandan for senior scale. Subsequently in 57th governing body of the Engineering college (Pondicherry) Society held on 16.2.2006 adopted the revised Career Advancement Scheme issued by the AICTE by the first respondent college. In view of the above subsequent development also, the petitioner has to succeed in the writ



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petition. Even otherwise, by G.O.Ms.No.103 dated 22.9.2009, the government of Pondicherry implemented VI Pay Commission recommendation and thereby the petitioner is eligible to be appointed as lecturer. There is no reason available for the first respondent to deny the said right to the petitioner, which only go to show that the petitioner alone was subject to discriminatory treatment for no fault on his part. Violating Article 14 of the Constitution of India as held by the Hon'ble Supreme Court, in (2009) 7 SCC 734 and 2004 (12) SCC 540 there cannot be discrimination between similarly situated. Therefore the petitioner should be extended the same benefit given to the aforesaid similarly placed persons.

17. For the reasons stated above, this court includes that non-consideration of petitioner for movement to the higher scale is arbitrary and the impugned order passed by the first respondent is liable to be quashed and the first respondent is directed to grant the benefits of Career Advancement Scheme to the petitioner by taking his past service as per the guidelines of the second respondent with all benefits including seniority and monetary benefits. This case is a fittest case to award heavy cost against the first respondent for taking a stand which is against the Acts and guidelines framed by UGC and AICTE and also against settled position of law laid down by the Supreme Court as well as this court. However this court is not slapping any cost due to judicial restraint. Accordingly the writ petition is allowed.”



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13. A perusal of the above order makes it clear that the appellant was directed to grant the benefits of Career Advancement Scheme to the respondent by taking his past service as per the guidelines of the AICTE and also grant all consequential benefits including seniority and monetary.

14. It is pertinent to note that as against the order passed in W.P.No.10049 of 2004, dated 11.01.2011, no appeal was preferred by the appellant and in fact, in Contempt proceedings, the appellant produced a copy of the proceedings dated 01.01.2011 (a copy of the same is enclosed at page 25 of the typed set) which were issued in compliance to the above order, wherein, it has been clearly mentioned that the respondent is deemed to be placed as Lecturer (Sr.Scale) notionally with effect from 05.08.1998 and with monetary benefits from the date of his joining the appellant college, i.e. with effect from 26.11.1999 in the pay scale of pay of Rs.10,00-325-15,200 and that on completion of five of service as Lecturer (Sr.Scale), he is deemed to be promoted as Assistant Professor in the scale of pay of Rs.12,000-420-18,300/- with effect from 05.08.2003. Further, in regard to seniority, it was clearly mentioned that “as regards seniority, in the post of

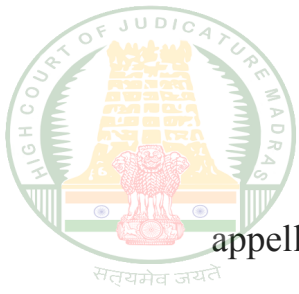


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Lecturer, he will be considered as Senior most Lecturers recruited in the Staff Selection (Teaching) Committee meeting held on 03.05.1999 and overall revised seniority of lecturers in the department of Civil Engineering will be issued shortly”. Recording the above proceedings, dated 07.01.2011, particularly, as regards the seniority, which was assured by the appellant stating that the seniority of the respondent in the post of Lecturer, he will be considered as Senior most among lecturers recruited and overall seniority of lecturers would be issued shortly, this Court closed the contempt proceedings.

15. While that be so, contrary to the orders of this Court, it appears that the appellant issued tentative seniority list dated 18.9.2018 placing the respondent far below to his juniors who joined their respective services after his joining as Lecturer/Assistant Professor on 05.08.1993 and despite the representation made by the respondent, the appellant issued seniority list dated 12.10.2018 confirming the tentative seniority list, dated 18.09.2018, which once again prompted the respondent to file Writ Petition. As rightly submitted by the learned counsel for the respondent, the



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appellant, having assured that the respondent would be placed as senior most among Lecturers and overall revised seniority of Lecturers would be issued, it is not fair on the part of the appellant to place him far below to his juniors who had joined the service after joining of the respondent. This Court finds considerable force in the contentions raised by the learned counsel for the respondent. The only contentions raised on behalf of the appellant are that the AICTE had abolished the cadre of Lecturer with effect from 01.01.2006 vide notification dated 05.03.2010 and that the respondent had acquired Ph.D. only on 10.02.2014 and hence, he was placed at 11 in the seniority list, which according to the respondent even below to his juniors. Mere re-designation of the post and and acquiring Ph.D. at later point of time, it is not properly explained by the appellant as to how the original seniority of the respondent which was to be fixed as per the norms of the AICTE would get affected and the seniority of the respondent would be lower than his juniors. The learned Judge, after taking note of each and every aspect of the matter including the earlier orders of this Court, particularly, the order, dated 26.11.2009 passed in W.P.No.10049 of 2004, has rightly allowed the Writ Petition, directing the appellant to re-fix the



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seniority of the respondent in terms of the above said order, dated 26.11.2009 passed in the Writ Petition and the order dated 11.01.2011 passed in the Contempt Petition. This Court does not find any infirmity in the said order of the learned single Judge in order to interfere with the same.

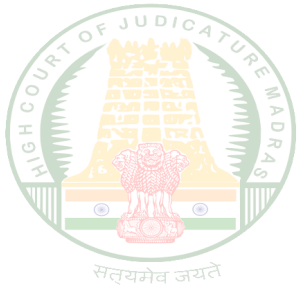
16. For the foregoing reasons, this Writ Appeal fails and it is dismissed. No costs. Consequently, connected CMP is closed.

(J.N.B.J.,) (M.J.R,J.,)
16.09.2025

Index: Yes / No
Internet: Yes / No
Speaking Order / Non Speaking Order
suk

To

The Principal,
Pondicherry Engineering College,
Puducherry-605 014.



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J.NISHA BANU, J.
and
M.JOTHIRAMAN, J.
suk

**Pre delivery Judgment
in W.A.No.2236 of 2022**

16.09.2025