



WEB COPY

WP No. 22155 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-04-2025

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

WP No. 22155 of 2019

1. P.Azhagar Samy
S/o. Poochi, No. 2/ 2926, 3rd Street,
Nehru Nagar, Vairavapuram, Karaikudi
- 6, Sivaganga District Sivaganga

Petitioner(s)

Vs

1. The State of Tamil Nadu
Rep. by its Secretary To Government,
Higher Education Department,
Secretariat, Chennai - 9Chennai

2.The Principal Secretary/
Commissioner of Technical Education,
O/o. The Directorate of Technical
Education, Guindy, Chennai - 25

Respondent(s)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct the respondents to consider the claims of the petitioner for promotion to the post of regular Head of the Department from 29.09.2006 and also Principal on par with the petitioners junior and fix the pay



of the petitioner and consequently fix the pension of the petitioner on par with junior with all consequential benefits

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For Petitioner(s): M/s.A.R.Suresh
for MR.K.Arumugam

For Respondent(s): Mr.S.Arumugam
Government Advocate

ORDER

The writ petition is filed to direct the respondents to consider the claims of the petitioner for promotion to the post of regular Head of the Department from 29.09.2006 and also Principal on par with the petitioners junior and fix the pay of the petitioner and consequently fix the pension of the petitioner on par with junior with all consequential benefits.

2. Earlier the petitioner has filed a writ petition in W.P.No.24070/2010 dated 01.11.2016 to set aside the rejection of the petitioner's promotion to the post of Instructor with effect from the year 1982 and to give consequential direction to promote him to the post of Instructor in view of G.O.Ms.No.1364, Education Department, dated 16.08.1988 and give him consequential promotion to the next level post based on the orders passed in the Writ Appeal in W.A.No.261/2008 dated 08.04.2008 and G.O.Ms.No.89 Higher Education Department, dated 31.03.2009 and to fix the petitioner's pay on par with his junior and pay arrears. The above writ petition has been allowed by giving the petitioner the following relief:

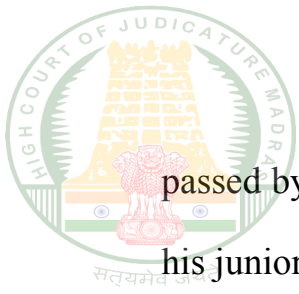


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“ 18. Considering the fact that the petitioner has to be given promotion and he has retired from service the respondents are hereby directed to give promotion to the petitioner from the date on which he completed two years of service i.e. From 17.11.1982 as Instructor and also his further promotion till Head of Department, though he attained superannuation, with retrospective effect. The respondents are further directed to see the pay disparity if any and pay dues can be calculated and disbursed to the petitioner. This benefit can be extended to retirement and pensionary benefits also. The needful shall be done by the respondents within a period of four months from the date of receipt of a copy of this order.

19. The writ petition is allowed with the above directions.”

3. As the petitioner has been found to be eligible to be promoted as Instructor, he was granted with the promotion to the post of Instructor from 17.11.1982 and further promotion till the Head of Department though he attained the age of superannuation with retrospective effect. Accordingly, the Government Order in G.O.(Ms).No.237, Higher Education (C2) Department dated 18.08.2017, has been passed and the petitioner has been given with promotions with retrospective effect to the post of Instructor with effect from 18.11.1982. So far as the monetary benefit is concerned, the date of joining of his junior as Instructor i.e. on 10.10.1983 has to be taken instead of 18.11.1982 on which date he acquired the qualification. The Government Order has been



passed by giving parity in the matter of promotion for the petitioner on par with his juniors and with retrospective effect.

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4. Now the petitioner's contention is that he has been given the promotion till the level of upgraded Head of the Department and his juniors have been promoted to the post of Head of Department and Principal. If the petitioner is also considered on par with his junior, he would have also got promotion to the post of Regular Head of the Department and next level promotion of Principal. Even when the orders are passed in W.P.No.24070 of 2010 the petitioner has attained the age of superannuation on 31.05.2015. However, the writ petition was filed for the relief of promoting to the post for which his juniors were promoted. The order has been passed subsequent to his retirement on 01.11.2016.

5. It is learnt that the petitioner's junior has already been permitted to the post of Regular Head of the Department and thereafter Principal. During that time the petitioner was also very much present in the service. So the earlier order dated 01.11.2016 made in W.P.No.24070/2010 is very clear with regard to the fact that the petitioner has to be treated on par with his junior and that whatever benefits are given to his junior, it should be given to the petitioner also. The Government Order has been passed only by promoting the petitioner to the post of upgraded Head of the Department and not to Head of Department (Regular) thereafter.



6. The contention of the petitioner is that his junior Kamatchi has been promoted to Regular Head of Department and the post of Principal was not denied by the respondents. As the petitioner did not know the further promotion of his junior at the time when the earlier writ petition was filed, he only sought parity with his juniors. The Government Order passed stating that the petitioner has been given with upgraded Head of Department would amount to complying the order. It may be correct to state that the order passed in the writ petition was complied by the issuance of G.O.(Ms).No.237, Higher Education (C2) Department dated 18.08.2017. The very attitude of the respondents in accepting the order of the Court and issued the above Government Order itself would confirm the fact that the petitioner should be treated on par with his immediate juniors and his entitlement to the next level post should not have been withheld or restricted. So irrespective of any orders of the Court, the petitioner has to be given with automatic promotion on par with his juniors to the next level post of Regular Head of Department and Principal but the petitioner was not given with the promotion.

7. The very claim of the respondents is that Kamatchi was appointed to the post of Instructor by direct recruitment and the petitioner was appointed to the post of Instructor by way of promotion. Hence, the petitioner cannot compare himself with Kamatchi and Kamatchi was not junior to the petitioner. In the Government Order it has been stated that the date of joining of his junior as Instructor is only 10.10.1983 and not 18.11.1982. As the reference was made



to the date of joining of Kamatchi i.e. on 10.10.1983 as the relevant date for the petitioner to claim parity with his junior, the Government Order in G.O.(Ms).No.237, Higher Education (C2) Department dated 18.08.2017 has been passed. So it is clear that Kamatchi is a person who is junior to the petitioner and the petitioner's parity has been made on and from 10.10.1983 on which date Kamatchi had joined as Instructor through direct recruitment. In such case whatever benefits extended to Kamatchi should also been extended to the petitioner without waiting for further court orders. When the right is settled that the petitioner is entitled to be kept on par with his immediate junior Kamatchi, it is needless to state that whatever promotional benefits enjoyed by Kamatchi is due to be given to the petitioner also.

8. In view of the same the respondent cannot give a different interpretation for the entitlement of Kamatchi on unreasonable grounds. It is clear that the next level promotion is from the upgraded Head of Department as regular Head of Department and then to the post of Principal. As Kamatchi has been given with these benefits, it is needless to state that the petitioner should also be entitled to the above benefits, however, with retrospective effect and retrospective effect of the above promotion shall be only for the purpose of getting pensionary benefits.

9. In view of the above stated reasons, the writ petition is **allowed** and the respondents are directed to give notional promotion to the petitioner on par with



his junior Kamatchi to the post of Regular Head of Department and Principal, notionally and to revise the pension of the petitioner with retrospective effect, however with no monetary effect except for terminal benefits, within a period of four weeks from the date of receipt of a copy of this order. No costs.

22-04-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. The Secretary To Government,
Higher Education Department,
Secretariat, Chennai - 9Chennai

2. The Principal Secretary/
Commissioner of Technical Education,
O/o. The Directorate of Technical
Education, Guindy, Chennai - 25



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