

W.A(MD) No.1477 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	11.07.2025
Pronounced on	29.08.2025

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MS.JUSTICE R.POORNIMA

W.A(MD) No.1477 of 2025
and
C.M.P(MD) No.8627 of 2025

The Registrar,
Bharathidasan University,
Trichy – 620 024.

... Appellant/Respondent

-VS-

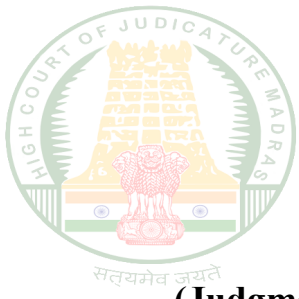
Bhoopathy

... Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 10.11.2022 made in W.P(MD) No.13919 of 2022.

For Appellant : Mr.VR.Shanmuganathan

For Respondent : Mr.S.Ramakrishnan
for M/s.B.Jameel Arasu



W.A(MD) No.1477 of 2025

J U D G M E N T

(Judgment of the Court was made by A.D.JAGADISH CHANDIRA, J.)

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Aggrieved by a Writ order dated 10.11.2022, passed by the Writ Court in W.P(MD) No.13919 of 2022, the respondent in the said writ petition, has come up with this writ appeal.

2. The respondent in the writ petition is the appellant and the writ petitioner is the respondent herein.

3. The brief facts leading to the filing of the writ appeal are as follows:

3.1. In the affidavit filed in support of the writ petition, the respondent/writ petitioner stated that he was appointed as a Watchman/Guard under the category of Nominal Muster Roll (NMR) on 18.06.1986, by the appellant University, alongside several others.

3.2. Upon the successful completion of 12 years of continuous service, the respondent's position was regularized on 18.08.1998 by virtue of proceedings in Na. Ka. B2/9239/89, issued by the appellant University.



W.A(MD) No.1477 of 2025

After serving diligently and completing five more years post-regularisation, the respondent was granted Selection Grade on 19.01.2006 in the same post of Watchman/Guard.

3.3. Subsequently, vide proceedings in Na. Ka. B6/25756/2005 dated 26.08.2009, the respondent's designation was changed from Watchman/Guard to Office Assistant. It is crucial to note that this re-designation did not result in any change in either duties or salary.

3.4. Thereafter, on 11.09.2018, the respondent/writ petitioner was granted Special Grade, as per proceedings issued in P1/024838/2010, after years of meritorious and unblemished service. Despite having completed over 20 years of unblemished service, the respondent has not been granted any promotion by the appellant University. The respondent submits that this inaction is arbitrary and discriminatory, especially in light of G.O. No. 1077 dated 01.12.1987, which allows for promotion of eligible Class IV employees to Class III positions such as Attender.

3.5. In view of the stagnation in service and lack of upward mobility, the respondent made a formal representation to the appellant



W.A(MD) No.1477 of 2025

seeking promotion from the date of completion of one year in service or at least from the date of award of selection grade. As there was no response, the respondent filed W.P. (MD) No. 2634 of 2016 before this Court and this Court, by its order dated 09.11.2021, directed the appellant University to consider the respondent's representation and take appropriate action within a stipulated time frame. In response, the appellant issued the impugned proceedings dated 23.03.2021 in Na. Ka. P6/25786/2005, rejecting the respondent's request for promotion and holding that the Petitioner is not entitled to any promotion. Aggrieved by the said impugned proceedings, the respondent/writ petitioner has preferred the writ petition before the Writ Court.

4. The Writ Court, on 10.11.2022, passed the following order in W.P.(MD) No.13919 of 2022:

“6. There is no dispute that for the post of Attender / Record Clerk, the feeder grade is Office Assistant. It is not as if the petitioner was promoted to the post of Office Assistant in the year 2009. On the other hand, he was only redesignated as Office Assistant. The pay scales of Watchman and that of Office Assistant are one and the same.



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W.A(MD) No.1477 of 2025

Therefore, fairness requires that the petitioner's qualifying service in the feeder grade is reckoned with effect from 18.08.1998. The petitioner of course cannot be granted any retrospective promotion, because he voluntarily gave up the offer of promotion.

7. The learned counsel appearing for the petitioner would deny the said stand taken in the counter affidavit, but no rejoinder has been filed. I therefore go by what has been set out in the counter affidavit. The respondents are directed to consider the petitioner's case for promotion as Attender or Record Clerk or any other post in Class III by reckoning his service in the feeder grade with effect from 18.08.1998."

Therefore, the appellant has come forward with the present writ appeal, challenging the order passed by the learned Single Judge.

5. The learned counsel appearing for the appellant would contend that the respondent/writ petitioner was initially engaged as a Security Guard under private contractors during the construction works of the Appellant University around 1982. He was subsequently brought into University service as a Nominal Muster Roll (NMR) employee in 1986, along with 19 others, without adherence to public recruitment norms such



W.A(MD) No.1477 of 2025

as calling for applications, notifying vacancies through the Employment Exchange or following the communal roster. His eventual regularisation as Watchman on 08.08.1998 was not by way of competitive selection but as a one-time policy decision of the University to regularise long-serving NMRs. Hence, the respondent/writ petitioner's entry and regularisation cannot confer an automatic right to promotion under the statutory framework governing public appointments.

6. The learned counsel for the appellant would further contend that, while G.O. No.1077 dated 01.12.1987, allows Class IV employees to be considered for Class III posts after completing one year of service, such movement is conditional upon fulfilling educational qualifications, meeting age criteria, and occupying a feeder post recognized under University Statutes. The post of 'Basic Servant' alone is identified as the feeder cadre for promotion to Attender or Record Clerk (Class III posts). Although the respondent/writ petitioner, along with 29 others, was re-designated as Office Assistant on 26.08.2009, this was purely an administrative change without any alteration in pay, duties or promotional rights. It was a uniform re-naming exercise undertaken following a Syndicate Sub-Committee's recommendation and did not elevate the respondent/writ petitioner to a



W.A(MD) No.1477 of 2025

Class III cadre.

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7. Further, the respondent/writ petitioner had been offered the opportunity to opt for promotion to the post of Attender but deliberately declined the same through a written communication dated 04.05.2018, preferring to remain in the Class IV category due to the then higher retirement age of 60 years (as opposed to 58 years for Class III posts). His current claim is evidently an afterthought following the Government's enhancement of the retirement age to 60 for all categories. The Learned Single Judge, while disposing of W.P.(MD) No.13919 of 2022, directed the University to reckon the respondent/writ petitioner's service in the feeder grade from 18.08.1998 for considering him for promotion to a Class III post. This direction overlooks the respondent/writ petitioner's ineligibility under applicable rules, his past refusal of promotion and the non-promotional nature of his re-designation. The impugned order, therefore, warrants interference in this writ appeal. With these submissions, the learned counsel for the appellant prayed this court to allow this appeal by setting aside the order passed by the learned Single Judge in the writ petition.



W.A(MD) No.1477 of 2025

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8. On the other hand, the learned counsel for the respondent/writ petitioner submitted that the petitioner has rendered over 24 years of continuous, unblemished service in the appellant University. Despite this, he has not received any promotion throughout his tenure, except a re-designation from Watchman/Guard to Office Assistant in 2009, which involved no change in duties, pay or status. The learned counsel further contended that the respondent/writ petitioner's re-designation cannot be considered as a promotion and should not have been used as a basis to deny his request. The justification that promotion would disturb the seniority of directly recruited Office Assistants is baseless, especially when juniors appointed in 2018 – 2019 have already been promoted. Further, similarly placed employees, namely, Rasheeth Khan, Manohar and Thiraviyam, were promoted or directly appointed to Class III posts, demonstrating discriminatory and inconsistent treatment. The petitioner possess the requisite qualifications and has been unjustly overlooked. Therefore, the learned Single Judge rightly directed to consider his promotion from 18.08.1998, which is under challenge in this appeal, does not call for any interference by this court.

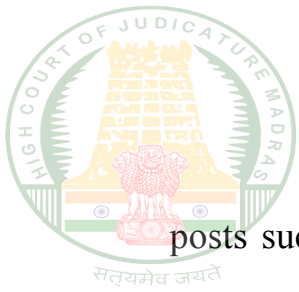


W.A(MD) No.1477 of 2025

9. In reply, the learned counsel for the appellant submitted that the respondent/writ petitioner was given a fair and reasonable opportunity for promotion. However, taking into account the difference in retirement ages, 60 years for his then post and 58 years for the post of Attender, the petitioner voluntarily declined the promotion earlier to retain the benefit of a higher retirement age. Only after the Government subsequently raised the retirement age to 60 years for all categories, the petitioner has conveniently sought promotion. Therefore, the petitioner's claim is an afterthought and cannot be allowed to prejudice the service conditions and seniority of other employees.

10. We have heard the learned counsel appearing for both sides and also perused the materials placed on record.

11. A careful perusal of the records reveals that the respondent/writ petitioner has admittedly rendered more than two decades of continuous and unblemished service in the appellant University, without any adverse remarks. It is not in dispute that the respondent/writ petitioner was re-designated from Watchman/Guard to Office Assistant on 26.08.2009, a post which falls within the feeder category for promotion to Class III



W.A(MD) No.1477 of 2025

posts such as Attender or Record Clerk. However, no promotional benefit was extended to the petitioner, despite repeated representations. While the appellant University has argued that the petitioner voluntarily declined promotion earlier to retain the benefit of a higher retirement age, it is evident that such a choice was made based on prevailing service conditions at the time. Following the subsequent enhancement of the retirement age to 60 years for all categories by the Government, the petitioner has now sought promotion. This cannot be treated as opportunistic, particularly when similarly placed or even junior employees were promoted or directly appointed to Class III posts, as evident from the materials placed on record. The petitioner's denial, while juniors were advanced, reflects an inconsistency in application of service rules and creates a situation of unfairness.

12. This Court is also of the considered view that consideration for promotion, though not an absolute right, forms an essential part of fair service conditions and is protected under Article 14 and Article 16(1) of the Constitution of India. The principle of equality of opportunity in matters of public employment includes the right to be considered for promotion on an equal footing. When the petitioner satisfies the eligibility criteria and has



W.A(MD) No.1477 of 2025

been placed in the feeder category post, arbitrary exclusion from consideration, especially when juniors were promoted, offends the constitutional mandate of equality and non-discrimination.

13. However, considering that the petitioner was re-designated as an Office Assistant on 26.08.2009 and that the petitioner himself exercised his option in writing on 04.05.2018 to retain in the post of Office Assistant (Class IV) category, this Court finds it appropriate to modify the direction issued by the learned Single Judge with regard to the date for reckoning eligibility for promotion. Accordingly, the respondent/writ petitioner's eligibility for promotion shall be considered from the date of re-designation i.e., 26.08.2009 and not from 18.08.1998, as ordered by the Writ Court.

14. Subject to this modification, the Writ Appeal stands partly allowed and the order of the learned Single Judge is upheld. The appellant/University is directed to consider the respondent/writ petitioner's case for promotion to any suitable Class III post, by treating 26.08.2009 as the effective date for reckoning feeder service and pass appropriate orders as expeditiously as possible, preferably within a period of eight (8) weeks



W.A(MD) No.1477 of 2025

from the date of receipt of a copy of this judgment. There shall be no order

as to costs. Consequently, the connected miscellaneous petition is closed.

[A.D.J.C., J.] [R.P., J.]
29.08.2025

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
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W.A(MD) No.1477 of 2025

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To
The Registrar,
Bharathidasan University,
Trichy – 620 024.



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W.A(MD) No.1477 of 2025

A.D.JAGADISH CHANDIRA, J.
AND
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W.A(MD) No.1477 of 2025

29.08.2025