



W.P(MD) No.17926 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.01.2025

CORAM

THE HON'BLE MS.JUSTICE R. POORNIMA

W.P(MD) No.17926 of 2016

and

W.M.P(MD)No.16347 of 2017

A.Vellaichamy

... Petitioner

Vs

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary Department of Higher Education
Fort St. George,
Chennai - 600 009.

2.The Director of Collegiate Education
DPI Campus,
College Road,
Nungambakkam,
Chennai - 600 006.

3.The Principal
Periyar E.V.R. College,
Trichy – 620 023.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.38363/B2/2007 dated 7.2.2014 quash the same and direct the respondents 1 and 2 to re-designate the petitioner as Mechanic Grade-I as per G.O.Ms.No.186 Higher Education Department dated 7.5.2004 issued by the 1st respondent with all attendant monetary and service benefits.

For Petitioner : Mr.M.Saravanan
For Respondents : Mr.V.Omprakash
Government Advocate

ORDER

This Writ Petition is filed by the petitioner with a prayer to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.38363/B2/2007 dated 7.2.2014, quash the same and direct the respondents 1 and 2 to re-designate the petitioner as Mechanic Grade-I as



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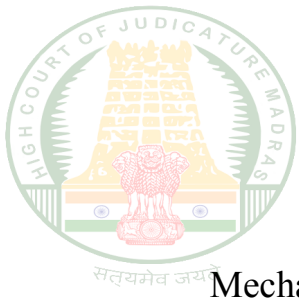
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per G.O.Ms.No.186 Higher Education Department dated 7.5.2004 issued by the 1st respondent with all attendant monetary and service benefits.

2. The brief case of the writ petitioner are as follows:

(a) The writ petitioner had completed National Trade Certificate course in Lineman/Wireman Trade. On 27.06.1978, he joined the third respondent College as Electrician-cum-Mechanic. Thereafter, by G.O.(Ms)No.1147, Education Department, dated 27.06.1978, the post of Electrician-cum-Mechanic was converted as Mechanic. The post of Mechanic was classified as Mechanic Grade-I and Junior Mechanic. The writ petitioner was paid in the pay scale of Junior Mechanic.

(b) One Mr.P.Nelson who was appointed in the Scott Christian College, Nagercoil, in a vacancy caused due to the retirement of P.Daniel Simon, he was fixed with the pay scale of Junior Mechanic. Challenging the same, the said Nelson filed W.P.No. 18963 of 1996 on the file of the High Court of Madras. The Court held that the post of Mechanic was designated as Mechanic in some Colleges and Junior

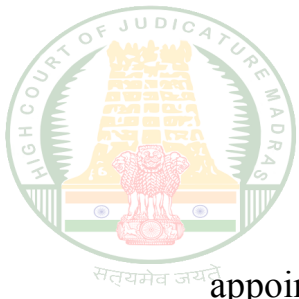


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Mechanic in other Colleges. As it is discriminatory, the Court allowed the said writ petition. Challenging the same, the Director of Collegiate Education filed W.A.No.260 of 2002 on the file of this Court. The Division Bench of this Court rejected the plea and hold that the Government never issued any order recognizing the status of technician as Junior Mechanic, but the Deputy Director of Collegiate Education, Chennai issued a proceedings recognising the status of technicians were appointed as Mechanic. Hence the Division Bench quash the proceedings of the Deputy Director fixing the scale of Junior Mechanic. In paragraph No.12 of the judgement, the Division Bench has rejected the contention of the Government that the petitioner did not possess required education qualification for the post of Mechanic and directed to designate Nelson as Mechanic to award all monetary benefits.

(c) The writ petitioner further submit that the first respondent decided to implement the order and issued G.O.(Ms)No.186 dated 07.06.2004, designating Nelson as Mechanic (Grade-I) from the date of appointment. Similarly, number of other persons, who were

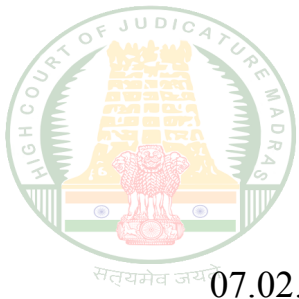


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appointed as Junior Mechanic filed W.P. Nos. 33046 of 2004, 4987 of 2005, 6442 of 2006 and 6443 of 2006 and this Court allowed the writ petitions. The first respondent issued Government Orders and disbursed the benefits. Further one Mr.K.Karuppasamy, Junior Mechanic of Meenakshi Government College, Madurai filed W.P.No.20536 of 2008 by order dated 22.08.2008, the Court was pleased to direct the respondent to pass necessary orders. In the meantime, on 31.8.2006, the petitioner retired from services as Mechanic (Special Grade).

(d) The petitioner coming to know about the above facts, on 29.10.2009 sent representation to the respondents to fix his salary in the pay scale of Mechanic Grade-I. As there was no response, he filed a Writ petition in W.P.(MD)No.12729 of 2009 and by order dated 04.12.2009, the Court directed the first respondent to consider his representation dated 29.10.2009 in the light of G.O.(Ms)No.186 dated 07.05.2004 by affording an opportunity to the petitioner and all other parties. The order was communicated to the respondents. He had also sent reminder on 17.06.2010. To his shock, the second respondent issued a letter dated



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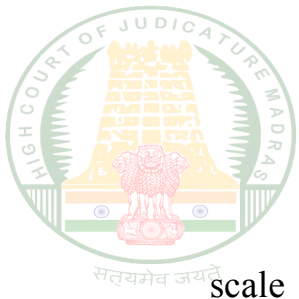
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07.02.2014, rejecting his request on the ground that he was not qualified.

The very stand taken by the respondents in the case reported in 2004(1) MLJ 53 was rejected by the Division Bench of this Court and respondents were directed to designate the petitioner therein as Mechanic Grade-I and similarly placed persons including one C.Perumal of Government Thirumagal Mills College, Gudiyatham and S.Thangavelu of Bishop Heber College, Tiruchirapalli, were given the same benefits. But unfortunately, his claim alone was rejected. Hence, challenging the same, the present writ petition has been filed.

3. The averment contained in the counter affidavit filed by the second respondent are as follows:

(i) That the petitioner had entered into Government service as Electrician-cum-Mechanic on 27.06.1978, in the third respondent College. He has been redesignated as Mechanic and his pay has been allowed pertaining to that of Junior Mechanic. The petitioner without any issues continue to work in that capacity. The petitioner, on 29.10.2009 has sent a representation to the respondent to fix his salary in the pay



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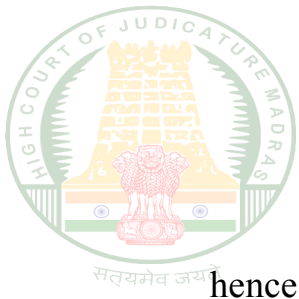
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scale of Mechanic Grade-I. He had also filed W.P.(MD)No.12729 of 2009, wherein, the Court ordered to consider his representation and pass orders. The first respondent after careful consideration rejected his representation. Aggrieved against the said order, the petitioner has filed the present writ petition seeking to quash the same.

(ii) That the petitioner cannot be equated with that of the case of Thiru. P.Nelson, as he does not possess the required qualification to be considered as Mechanic Grade-I. The qualification prescribed in G.O(Ms)No.1704, Education Department dated 21.12.1990 for Mechanic Grade-I is as follows:

“SSLC pass with National Trade Certificates with two years experience.”

Whereas Thiru. P.Nelson has possessed the above qualification and based on the Division Bench judgment, he was designated as Mechanic Grade-I and related pay has been fixed. In the instant case, the petitioner does not possess the required qualification as his educational qualification is 9th standard fail and passed on Lineman/Wireman Trade



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hence, the rejection order issued by the second respondent is in order and it is valid in the eye of law.

(iii) That the petitioner's views reflect in his representation.

The petitioner was not called for personal hearing. As such, there is no breach in passing the orders by the first respondent in Thiru.P.Nelson case, the Court has stated that there should not be any discrimination among the Government and aided College. The general stand of the respondents is that Mechanic should be given the pay scale applicable to Junior Mechanic. In specific cases where the High Court has ordered to fix scales as equal to that of Grade-I Mechanic, the respondents have done so.

(iv) That the petitioner has not fulfilled the minimum educational qualification as prescribed in G.O.(Ms)No.186 dated 7.5.2004 are as follows.

- 1. S.S.L.C. passed or its equivalent and National Trade Certificate either in*
 - a) Electrician Trade or in Machinist Trade with*



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3 years experience in operation of Electrical Generator, Electrical Motors and Pumpsets, knowledge of servicing electronic and Electrical instruments such as CRO Vacuum tube, voltmeter, Projector, amplifier, pumping and minor Carpentry.

or

b) National Apprenticeship course Certificate either in Electrician Trade or Electronic Mechanic Trade with 2 years experience of operation and maintenance of Electrical Generator, Electronic Motors and Pump sets. knowledge of servicing Electronic and Electrical instruments such as CRO, Vacuum Tube, Volt Meter, Projector, Amplifier, Pumping and minor Carpentry.

Therefore, the contention of the petitioner is not correct. The respondents not shown any discrimination and treat the staff as per law and the existing rules in force. Since he has not possessed the required qualification, he was not allowed to pay scale admissible to Mechanic Grade-I. The respondents not shown any bias or discrimination, the order passed by the 1st respondent is legal and sustainable and hence, the writ petition is liable to be dismissed.



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4. Heard the learned counsel on either and perused the materials available on record.

5. On 29.10.2009, petitioner sent a representation to the respondents with prayer to redesignate him as Mechanic Grade-I as per G.O.(Ms)No.186 dated 07.05.2004 with all monetary and service benefits. In his representation, he stated that he had completed Lineman/Wireman Trade in Diploma and joined as Electrical-cum-Mechanic in Periyar College, Trichy on 27.03.1978. As per G.O.(Ms)No.1147 dated 23.6.1977 Education Department, the post of Electrician-cum-Mechanic has been converted to Mechanic. The salary for Mechanic was classified as Grade-I and Junior Mechanic. He was paid in the pay scale of Junior Mechanic.

6. To support his contention, the learned counsel for the petitioner relied upon judgement reported in 2004(1) MLJ 53, in which paragraph No.12 the Division Bench of this Court has held as follows:

“12. In this connection, the learned counsel appearing for the first respondent would vehemently



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contend that even though the claim of the first respondent as mechanic was not considered by the concerned authority on the ground that he is not possessing necessary qualifications as prescribed under the Tamil Nadu General Subordinate Service Rules, the services of the similarly placed persons like the first respondent in some other private colleges have been approved and they have been given the status of “Mechanic” and permission was granted to get grant from the Government exchequer.”

7. Per contra, the learned Government Advocate appearing for the respondents argued that as per G.O.(Ms)No.1704, the Electrician/Mechanic should pass SSLC or other equal qualification, but the petitioner was not passed SSLC, but his qualification is 9th failed.

8. I rely upon the judgment reported in 2004 (1) MLJ 53 in paragraph No.11, wherein, the High Court held as follows :

“11. Further on the basis of the letter addressed by the Deputy Director of the Collegiate Education, Tirunelveli, to the second respondent, dated 15.3.1989,



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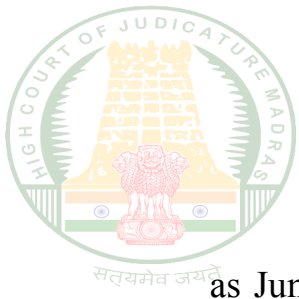
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who rejected the plea of the first respondent on the ground that the first respondent was not possessing the required qualification for the post of mechanic as prescribed under Sub-clause 2-A to Clause XII. In such circumstances, the claim of the first respondent cannot be accepted. Based on the said proceedings dated 29.10.1987, the appointment of the first respondent as junior mechanic was approved on the basis of the G.O.Ms.No.1704, dated 21.12.1990.”

9. In Paragraph No.17 the High Court held as follows :

“17. As pointed out by the learned single Judge of this Court that there should not be any discrimination with regard to status of the technicians working in Government Colleges and in the private colleges.”

10. Based on the judgement, the respondents vide G.O(Ms)No.186 dated 07.05.2004, Thiru.P.Nelson as Mechanic Grade-I in the scale of applicable to Mechanic Grade-I with effect 02.05.1988. Likewise, Thangavel Junior Engineer of Bishop College also appointed



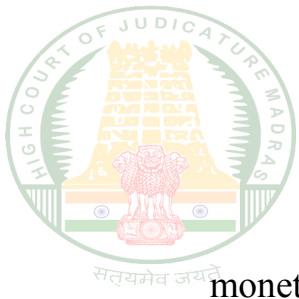
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as Junior Mechanic who has not possessed required qualification on the date of appointment as Grade-I Mechanic as per the proceedings of the Joint Director of Collegiate Education in Na.ka.No.5890/2/07 dated 24.3.2008.

11. The petitioner further enclosed details obtained under Right to Information Act from the Principal, Government Thirumagal Mill College, Gudiyatham bearing Na.Ka.No.339/Aa/98 dated 03.08.2012, in which it was stated that one Perumal, who has been retired as Mechanic and granted Grade - I Mechanic as per the information he was joined on 25.11.1971 and his qualification was not passed 10th but is holding ITI certificate in the year 1968. He was granted Grade-I Mechanical post as per order dated 01.06.1988, likewise number of Mechanic who did not possess the required qualification at the time of appointment has been granted Grade-I Mechanic.

12. Similar issue was decided in W.P.(MD)No.592 of 2011. In that case also by an order, the respondent rejected his application for

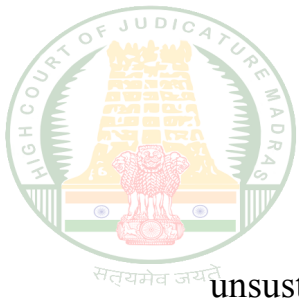


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monetary benefit on the ground that he has failed in SSLC. The High Court held that the qualification for Mechanic was modified only in the year 1990 and that the impugned order making the petitioner ineligible to enjoy the monetary benefits and promotion given to the petitioner in the year 1985 is improper. Any recruitment rule having the effect of taking away a benefit earned or accrued to an employees is violative of rights guaranteed under Article 14 of the Constitution of India.

13. The learned counsel for the petitioner submitted that the reason given by the first respondent based on G.O.(Ms)No.1704 dated 21.12.1990 is erroneous as the petitioner was promoted in the post of Mechanic long prior to 1990. The Government Order which came into effect on 21.12.1980 cannot apply retrospective. Having regard to the admitted fact that the petitioner, who was promoted as Mechanic by the proceedings of the 4th Respondent dated 30.12.1983. The petitioner is entitled to monetary benefits and the same cannot be denied subsequently by referring a subsequent Government Order prescribing additional qualification for the post of Mechanic. Hence, the impugned order is



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unsustainable and the same is liable to be quashed.

14. The above case is squarely applicable to the present case. The date of order appointment of the petitioner is much prior to the date of Government Order i.e., on 27.06.1968 and therefore, the impugned order passed by the 2nd respondent on 07.02.2014 is erroneous and the same is liable to be quashed.

15. Accordingly, the Writ Petition is allowed. The impugned order passed by the 2nd respondent dated 07.02.2014 is hereby quashed. The respondents 1 and 2 are directed to disburse the monetary benefits to the petitioner within a period of three months from the date of receipt of copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

21.01.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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To

- 1.The Government of Tamil Nadu,
Rep. by its Principal Secretary Department of Higher Education
Fort St. George,
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R.POORNIMA, J.

RM

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