

W.P(MD) No.23286 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.11.2024

Delivered on : 12.03.2025

CORAM

THE HON'BLE MS.JUSTICE R. POORNIMA

W.P(MD) No.23286 of 2016

A.Saravanan

... Petitioner

Vs

- 1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Higher Education,
Fort St. George,
Chennai - 600 009.
- 2.The Registrar of Collegiate Education,
College Road,
Chennai - 600 006.
- 3.The Joint Director of College Education,
Madurai Region,
Madurai.
- 4.The Secretary,
Lady Doak College,
Madurai – 625 002.

... 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 relating to impugned proceedings of 1st respondent herein in Lr.No.13514/D1/2011-16 dated 28.03.2016 and quash the same and consequently direct the respondents herein to re-designate the petitioner as Grade I Mechanic with effect from 16.08.1994 with all monetary and service benefits.

For Petitioner : Mr.T.Pon Ramkumar
For Respondents : Mr.V.Om Prakash,
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 relating to impugned proceedings of 1st respondent herein in Lr.No. 13514/D1/2011-16 dated 28.03.2016 and quash the same and consequently direct the respondents herein to re-designate the petitioner as Grade I Mechanic with effect from 16.08.1994 with all monetary and service benefits.



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2. The grievance of the writ petitioner is that in the year 1982, he passed SSLC., and thereafter in the year 1984, he had passed ITI (Turner) (National Trade Certificate) (NTC) and after obtaining NTC course one year training course, viz., National Apprenticeship Certificate (NAC). Thereafter in the year 1993, he has passed 3 years Diploma in Mechanical Engineering.

3. The 4th respondent College is the aided minority College. By proceedings dated 9.10.1986, the Deputy Director of Collegiate Education has sanctioned one Mechanic post to the fourth respondent college. The Joint Director of Collegiate Education of all District in Tamil Nadu designated the said Mechanic as Junior Mechanic by discriminating them in respect of all aided colleges alone, however, in Government Colleges, the Joint Director of Collegiate Education has permitted to appoint the said post as Mechanic Grade-I post.

4. In the said vacancy one Thiru.Venkatraman was appointed as Junior Mechanic in the 4th respondent College. Since the



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said Venkatraman resigned the said post, the petitioner was appointed as Junior Mechanic on 16.08.1994.

5. The petitioner further stated that one Thiru.Nelson who was appointed as Junior Mechanic in the Mechanic Grade-I sanctioned post in the Scott Christian College, Nagarkovil, as like the petitioner herein, filed a writ petition in W.P.No.18963 of 1996, before the Principal Seat, Madras High Court, challenging the said discrimination order of the respondents appointing him as a Junior Mechanic and sought re-designate him as Grade-I Mechanic.

6. By order dated 21.06.2001 in W.P.No.18963 of 1996 it was allowed observing that there should not be any discrimination with regard to the status of a Technician working in Government College and in private aided Colleges and direction was issued to re-designate him as Mechanic. Aggrieved against the said order, the Government filed Writ Appeal in W.A.No.260 of 2002. By order dated 20.11.2003, the Division Bench of Madras High Court, dismissed the same.

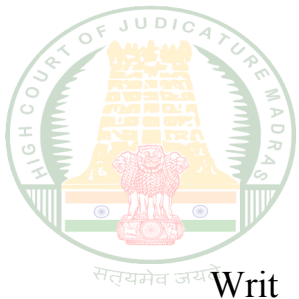


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7. Pursuant to the said order, the Government had issued G.O.(Ms).No.186 Higher Education Department dated 07.05.2004, whereby re-designating the said P.Nelson as Mechanic Grade-I. Pursuant to the order of the Division Bench and issuance of G.O. (Ms).No.186 Higher Education Department dated 07.05.2004 a batch of writ petitions have been filed before the Principal Seat seeking re-designate them as Grade-I Mechanic and all the writ petitions were allowed. The respondents also implemented the said orders by issuing various Government Orders by re-designating them as Grade-I Mechanic from the post of Junior Mechanic.

8. Since the persons who were appointed as Junior Mechanic like the petitioner with the qualification referred in the petition were re-designated as Mechanic Grade-I, on 04.01.2011 the petitioner also made a representation to the respondents requesting them to redesignate him as Grade-I Mechanic from the post of Junior Mechanic. Since his representation was not considered by the respondents, he filed a writ petition in W.P.(MD)No.657 of 2011 before this Court, praying for a



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Writ of Mandamus, directing the respondents to consider his representation dated 04.01.2011 and redesignate him as Mechanic Grade-I with effect from 16.08.1994 as per G.O.(Ms)No.186 of 2004. The Court also directed the 2nd respondent to dispose of his representation dated 04.01.2011 in accordance with law, after hearing the petitioner and the 4th respondent and pass orders within a period of eight weeks from the date of receipt of a copy of the order. Pursuant to the order of the Court, the 2nd respondent called upon the petitioner and conducted a personal enquiry and accordingly he submitted all the Government Orders before the 2nd respondent.

9. The first respondent issued order in letter No. 13514/D1/2011–2016, dated 28.03.2016 that as per G.O.(Ms)No.1704 dated 21.12.1990 the qualification for the Mechanical post is Electrician or Machinist Trade. But the petitioner obtained Turner Trade Certificate Further G.O.(Ms)No.186 dated 07.05.2004 was issued only in respect of individual namely, Thiru.Nelson and the said G.O.(Ms)No.186, is applicable to the said Nelson alone and refused to redesignate the



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petitioner as Grade I Mechanic. Hence, the petitioner has filed this writ petition.

10. The learned Government Advocate appearing for the respondents filed counter by stating that as per G.O.(Ms)No.1704 Education Department dated 21.12.1990 whoever passed SSLC or its equivalent and the persons have a National Trade Certificate either in Electrician Trade or in Mechanical Trade within three years experience in operation of Electrical Generator, Electrical Motors and Pumpsets and also having knowledge of serving electronic and electrical instruments, such as CRO Vacuumtube, voltmeter, etc. Further the person must have two years experience in National Apprenticeship Course Certificate in operation of the equipment in Electrician Trade or in Mechanical Trade. The petitioner had studied a 'Turner' course and obtained one year experience certificate, namely, National Apprenticeship Certificate, not a Mechanical or Electrical course. Therefore, his request was rejected after considering the Government Orders and there is no need to interfere with the said order. Hence, he prayed for dismissal of the writ petition.



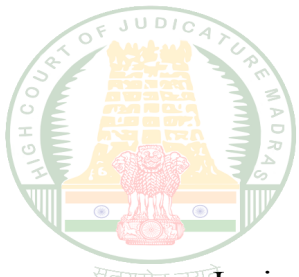
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11. Heard the learned counsel on either side and perused the materials available on record.

12. The learned counsel for the petitioner had relied upon the judgements reported in (i) 2008 (9) SCC 24 in Maharaj Krishnan Bhatt Vs. State of Jammu and Kashmir and (ii) 2015(1) SCC 347 in State of U.P Vs. Arvind Kumar Srivastava.

13. On careful perusal of the entire record, it reveals that the petitioner was appointed in the post of Junior Mechanic on 16.08.1994, in the fourth respondent College. National Trade Certificate was issued to the petitioner by the National Council for Vocational Training in the Trade of Turner during the year 1984. The petitioner obtained National Apprenticeship Certificate from the National Council for Vocational Training from the period 17.12.1986, to 16.12.1987, had also completed Diploma in Mechanical Engineering during October 1993, which is revealed from the certificates annexed by the petitioner in the typed set. He had obtained the required certificates before he joined in the post of



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Junior Mechanic as on 16.08.1994.
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14. One Thiru.Nelson, was appointed as Mechanic, but the scale pay of a Junior Mechanic was fixed by the Appointing Authority contra to their own proceedings. The said Nelson filed a petition in W.P.No.18963 of 1996 with a prayer to fix the pay of Mechanic w.e.f. the date of appointment i.e., 02.05.1988, redesignate him as a Mechanic and to pay the arrears, and the same was allowed as prayed for.

15. Against which a Writ Appeal in W.A.No.260 of 2002 and W.A.V.M.P.No.430 of 2002 and W.A.V.M.P.No.1272 of 2003 filed by the Director, Commissioner of Collegiate Education, Chennai, which was dismissed on 20.11.2023 confirming the order in W.P.No.18963 of 1996. The Government therefore, issued G.O.(Ms)No.186 Higher Education Department, dated 07.05.2004 and re-designated him as Mechanic Grade-I in the scale of pay applicable to Mechanic Grade-I with effect from 02.05.1988 and allowed consequence allowances.



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16. Subsequently, a batch of writ petitions were filed before the High Court by various persons who had been appointed as a Junior Mechanic with a prayer to redesignate them as Grade-I Mechanics, all the batch petitions were allowed, and the respondent implemented the order of the Court by Government Orders and redesignated them as Grade-I Mechanic from Junior Mechanic. The petitioner furnished the details of the persons who have been redesignated as Grade I Mechanic Junior Mechanics along with Government Order and their qualification, which is extracted and produced below :

Sl. No.	G.O.Number	Name	Qualification
1.	G.O.(3D) No.8 dated 18.11.2003	T.Manikandan	SSLC, ITI NTC, NAC (wireman Trade)
2.	G.O.(Ms) No.488 dated 22.11.2005	M.Kandasamy	SSLC, Diploma in Mechanical Engineering
3.	G.O.(Ms) No.79 dated 22.11.2005	C.Fransis	SSLC fail, ITI NTC (Turner)
4.	G.O.(Ms) No 98 dated 30.4.2007	G.Sivasankar And 16 others	No qualification were mentioned
5.	G.O.(Ms) No 452 dated 19.11.2008	M.Krishnamoorthy	SSLC, ITI NTC, NAC (Turner)



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6.	G.O.(Ms) No 5 dated 10.1.2011	S.Jesumani	Foundation course pass, ITI Motor Mechanic (NTC)
7.	G.O.(1D) No 22 dated 7.2.2011	S.Ramanathan	SSLC, Diploma in Electrical and Electronics Engineering
8.	G.O.Ms.No.327 dated 16.09.2005	S.Radhakrishnan	SSLC pass is the requisite qualification

17. Though the respondents did not deny the contention that the issuance of Government Orders and the number of Junior Mechanics were redesignated as Mechanic Grade I, they rejected the application of the writ petitioner by stating that he had not fulfilled the conditions stipulated in the G.O.Ms.No.1704 dated 21.12.1990, the petitioner should possess the following qualification :

“2. Based on the opinions of the Director of Collegiate Education and Director of Employment and Training the following revised educational qualifications is prescribed for the post of Mechanics in Government Arts Colleges which comes under class XIV of the Tamil Nadu General Subordinate Service.



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1. S.S.L.C. passed for its equivalent and

a. National Trade Certificate either in Electrician Trade or in Mechanic Trade with 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.

Provided if persons with two to three years of experience are not available in the live Register of the employment exchanges (1) persons with lesser experience or (2) persons with no experience shall be considered for appointment as Mechanic.

3. The Director of Collegiate Education is directed to send necessary The proposal for amending the Special Rules for The Tamil Nadu General



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Subordinate Service in this matter.”

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Therefore, rejected the petitioner's claim and refused to accept the petitioner's representation.

18. In this connection, the petitioner gathered information under the Right to Information Act and furnished the qualification of the persons designated as Mechanic Grade-I from Junior Mechanic as follows :

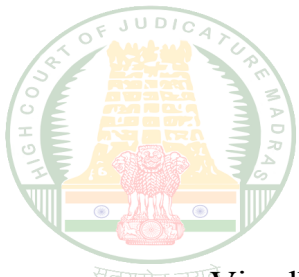
Sl. No.	Name	College Name	Qualification
1.	P.Karunakaran	Vivekananda college	SSLC failed, ITI NTC, NAC
2.	K.Sheriff	Ayya Janakiammal college Nadar	ITI fitter
3.	L.Kumaragurubaran	Aditanar College	DEEE (Diploma in Electrical and Electronic Engineering)
4.	Mohammed Ismail	Sadakathullah college	SSLC pass, ITI NTC, NAC (Radio and Television)
5.	G.Sivasankar	Devankaa college	SSLC, ITI NTC, NAC (Mechanic Radio & TV)



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6.	Thangavel	Bishop College Heber	SSLC failed, ITI NTC, NAC Mechanic
7.	S.Ramasamy	St.Johns College	SSLC pass, BSC (Physics)

19. The particulars furnished above shows that many persons who have been appointed as Junior Mechanics in their respective colleges did not possess the required qualifications stipulated in G.O. (Ms).No.1704 Education Department dated 21.12.1990, for example, one Thiru.M.Kandaswamy, who was appointed as Junior Mechanic in Vivekananda College and redesignated as Mechanic Grade-I under G.O. (Ms)No.98 dated 30.4.2007. As per information furnished by the Principal of the College shows that Karunakaran joined as a Junior Mechanic on 06.04.1987 and his educational qualification was SSLC failed, he obtained a National Trade Certificate and National Apprenticeship Certificate. Another person, Thiru.K.Sheriff initially appointed as a Junior Mechanic in Ayya Nadar Janaki Ammal College on 2.4.1988 and redesignated as Grade-I Mechanic, his educational qualification is ITI Fitter at Government Industrial Training Institute,



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Virudhunagar passed NTC during the year 1983. One another person Mohammed Ali, who was originally appointed as a Junior Mechanic in Sadakathullah College on 01.03.1990 designated as Mechanic Grade I, as per G.O.(Ms).No.98 dated 30.4.2007. His educational qualification on the date of appointment was SSLC passed, Diploma in Radio and Television, experience in an Electrician for five years and five months and redesignated as Mechanic Grade-I with effect from 1.9.1984. The particulars furnished by the petitioner reveals that most of the above person not possessed the required qualification as per G.O.(Ms.No.1704 dated 21.12.1990, but all of them filed writ petitions and all the above persons were originally appointed as Junior Mechanic and redesignated as Mechanic Grade-I, as per the orders passed in the writ petition.

20. To support his contention, the petitioner relied on the following judgements in ***The Director, Commissioner of Collegiate Education, Chennai and Others Vs. Nelson, Junior Mechanic, Scott Christian College, Nagercoil and another*** reported in ***2004(1) MLJ 53***, in which the High Court has held as follows :



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“There cannot be any discrimination with regard to status of the technicians working in Government Colleges and in the private aided colleges.”

21.In ***Maharaj Krishan Bhatt and another Vs. State of Jammu and Kashmir and Others*** reported in ***2008 (9) SCC 24***, in which the Supreme Court has held in paragraph No. 21 to 23 as follows :

“21. It was no doubt contended by the learned counsel for the respondent-State that Article 14 or 16 of the Constitution cannot be invoked and pressed in service to perpetuate illegality. It was submitted that if one illegal action is taken, a person whose case is similar, cannot invoke Article 14 or 16 and demand similar relief illegally or against a statute.

22. There can be no two opinions about the legal proposition as submitted by the learned counsel for the State. But in the case on hand, in our opinion, there was no illegality on the part of the learned Single Judge in allowing Writ petition No. 519 of 1997 instituted by Abdul Rashid Rather and in issuing necessary directions. Since the action was legal and in consonance with law, the Division Bench confirmed it and this Court did not think it proper to interfere with



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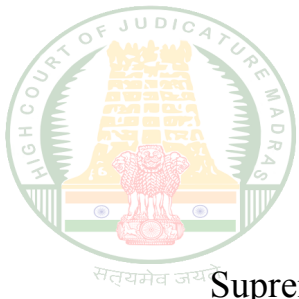
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the said order and dismissed Special Leave Petition. To us, in the circumstances, the learned Single Judge was wholly right and fully justified in following the judgment and order in Writ Petition No. 519 of 1987 in the case of present writ petitioners also.

23. In fairness and in view of the fact that the decision in Abdul Rashid Rather had attained finality, the State Authorities ought to have gracefully accepted the decision by granting similar benefits to present writ-petitioners. It, however, challenged the order passed by the Single Judge. The Division Bench of the High Court ought to have dismissed Letters Patent Appeal by affirming the order of the Single Judge. The Letters Patent Appeal, however, was allowed by the Division Bench and the judgment and order of the learned Single Judge was set aside. In our considered view, the order passed by the learned Single Judge was legal, proper and in furtherance of justice, equity and fairness in action. The said order, therefore, deserves to be restored.”

22. In *State of Uttar Pradesh and others Vs. Arvind Kumar*

***Srivastava and Others* reported in 2015 (1) SCC 347, in which the**



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Supreme Court has held in paragraph No. 22 as follows :

22. The legal principles which emerge from the reading of the aforesaid judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their



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counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

(3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see K.C. Sharma & Ors. v. Union of India (supra). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want



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to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”

23. In ***Abdul Hakeem M.A. And Others Vs. Mahatma Gandhi University and Others*** reported in **2019 (16) SCC 328**, in which the Supreme Court has held in paragraph No.26 as follows :

“26. The Order issued by the University on 04.08.1999 extended the benefits of the Kerala Government Pay Revision, 1997 to the Non-Teaching (Technical) staff. The Order issued by the Government of Kerala on 18.05.2000 for implementing revised scales of pay for teachers in Engineering Colleges in the State contemplated extension of revision in line with the recommendations of AICTE as approved by the Government of India with effect from 01.01.1996. Though similar benefits were extended by the University to the teachers of University College of Engineering, the benefits were restricted and the effect was given from 01.01.2001 instead of 01.01.1996. No reason is available on record why such benefit was restricted and the only explanation offered is that the teachers of University College of



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Engineering were temporarily appointed for a period of three years or more. As the facts in the first segment indicate that the appointments of the Appellants were not temporary and that they were appointed against substantive posts, which were created pursuant to resolutions passed by the concerned authorities, there was no reason to limit the scope of extension of benefits. Even the Principal of the University College of Engineering in letter dated 18.04.2001 voiced a concern that the teachers in the College were not temporary and that they would otherwise be entitled to the extension of some financial benefits. His letter in that behalf is quite eloquent. The steps taken and the stand adopted thereafter by the University is on the premise that the University College of Engineering under the School of Technical and Applied Sciences was a Self Financing Institution which was not getting any grants from the Government/All India Council and that it was not part of 20 Departments listed under the Statutes of the University. There is nothing on record to indicate that when the School of Technical and Applied Sciences was set up there was any resolution or decision by the University or its competent bodies to set up such School of Technical and Applied Sciences as a separate Institution. The University had secured conditional



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approval from the AICTE on 31.05.1996 and had thereafter caused steps to be taken for creation of posts and appointment of teachers against said posts. The University cannot dissociate itself and claim said University college of Engineering under the School of Technical and Applied Sciences to be otherwise than part of the University.”

24. In ***ALL Manipur Pensioners Association, rep. By its Secretary Vs. State of Manipur and Others*** reported in **2020 (14) SCC 625**, in which the Supreme Court has held in paragraph No.8.1 as follows:

“8.1.In the present case, the classification in question has no reasonable nexus to the objective sought to be achieved while revising the pension. As observed hereinabove, the object and purpose for revising the pension is due to the increase in the cost of living. All the pensioners form a single class and therefore such a classification for the purpose of grant of revised pension is unreasonable, arbitrary, discriminatory and violative of Article 14 of the Constitution of India. The State cannot arbitrarily pick and choose from amongst similarly situated



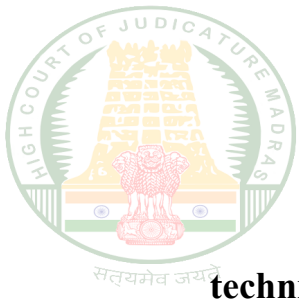
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persons, a cutoff date for extension of benefits especially pensionary benefits. There has to be a classification founded on some rational principle when similarly situated class is differentiated for grant of any benefit.”

25. Since the judgment referred above squarely applicable to this case, when a particular set of employees are granted relief by Court all other identical persons need to be treated alike by extending the benefits. The petitioner case also under this category. He was appointed as Junior Mechanic in 4th respondent college. On 16.04.1994 many employees appointed as Junior Mechanic like petitioner challenged their appointment and all of them were redesignated as Mechanic Grade-I. Therefore, the petitioner is also entitled to be redesignated as Mechanic Grade-I, as in the judgement reported in **2004(1) MLJ 53** dated 20.11.2003, it was held that there should not be any discrimination in the treatment of employee of Government Colleges and private aided colleges – order challenged in writ appeal – various Government orders and proceedings of the education department are discriminatory - **there should not be any discrimination with regard to status of the**



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technicians working in Government Colleges and in the private colleges - impugned order confirmed.” Based on the judgment number of Junior Mechanics were redesignated as Grade I mechanic with monetary benefits. Hence, the writ petition is liable to be allowed and therefore, the petitioner is entitled for the relief as prayed for in the writ petition.

26. In the in the result, the Writ Petition stands allowed and the order of the first respondent is hereby quashed. The respondents are directed to redesignate the petitioner as Grade-I Mechanic with effect from 16.08.1994 with all monetary and service benefits. The said exercise is completed within a period of three months from the date of receipt of copy of this order. No costs.

12.03.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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To
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- 1.The Secretary to Government,
Government of Tamil Nadu,
Department of Higher Education,
Fort St. George,
Chennai - 600 009.
- 2.The Registrar of Collegiate Education,
College Road,
Chennai - 600 006.
- 3.The Joint Director of College Education,
Madurai Region,
Madurai.
- 4.The Secretary,
Lady Doak College,
Madurai – 625 002.



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