

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

WP(C).No. 13597 of 2013 (Y)

PETITIONER(S):

DAVID MATHEWS AGED 44 YEARS S/O.CHUNKATH MATHEWS, HOUSE NO.21,
FORTDALE LANDSDOWN PARK, THIRUVIKKAL P.O.
THIRUVANANTHAPURAM - 695 011, (DESIGN ENGINEER
III TMK, TECHNO PARK CAMPUS, KARIAVATTOM P.O.
THIRUVANANTHAPURAM 695 581)

BY ADVS.SRI.ALEXANDER JOSEPH
SRI.T.P.JOSEPH
SRI.A.J.RAJU

RESPONDENT(S):

1. INDIAN INSTITUTION OF INFORMATION TECHNOLOGY
& MANAGEMENT - KERALA (IIITM-K)
REPRESENTED BY ITS DIRECTOR, TECHNOPARK, KARIAVATTOM
TRIVANDRUM 695001
2. STATE OF KERALA REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF INFORMATION TECHNOLOGY
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001
3. ALL INDIA COUNCIL FOR TECHNICAL EDUCATION (AICTE)
REPRESENTED BY ITS SECRETARY, 7TH FLOOR
CHANDRALOK BUILDING, JANPATH, NEW DELHI - 110 001
4. INDIRA GANDHI NATIONAL OPEN UNIVERSITY (IGNOU),
REP. BY ITS REGISTRAR, MAIDEN GASHI
NEW DELHI - 110 068.
5. T.RADHAKRISHNAN, CHIEF TECHNICAL OFFICER, III TM-KERALA,
TECHNOPARK CAMPUS, THIRUVANANTHAPURAM 695 001
6. K.PRADEEP KUMAR, DESIGN ENGINEER - SG III TM-KERALA, TECHNOPARK
CAMPUS, THIRUVANANTHAPURAM 695 001
7. AJITHKUMAR, INFORMATION & SYSTEMS ANALYST
III TM-KERALA, TECHNOPARK CAMPUS
THIRUVANANTHAPURAM 695 001
8. MERAJ UDDIN, DESIGN ENGINEER, III TM-KERALA, TECHNOPARK CAMPUS
THIRUVANANTHAPURAM 695 001

R4 BY ADV. SRI.P.M.M.NAJEEB KHAN, SC IGNOU
RR1 & 2 BY ADV. GOVERNMENT PLEADER
R1 BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15-12-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 : TRUE COPY OF THE APPOINTMENT ORDER DT 27.03.2003 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER
- EXT.P2 : TRUE COPY OF THE ORDER DATED 03.06.2004 OF THE 1ST RESPONDENT
- EXT.P3 : TRUE COPY OF THE STAFF GUIDELINES OF THE 2ND RESPONDENT
- EXT.P4 : TRUE COPY OF THE PROVISIONAL CERTIFICATE DATED 21.08.2012
- EXT.P5 : TRUE COPY OF THE MARK LIST DT 21.08.2012
- EXT.P6 : TRUE COPY OF THE CERTIFICATE DT 01.05.2004 OF THE BRITISH COMPUTER SOCIETY
- EXT.P7 : TRUE COPY OF THE TRUE COPY OF THE MINUTES OF THE 39TH MEETING OF THE BOARD OF DIRECTORS OF THE 2ND RESPONDENT DT 26.03.2013
- EXT.P8 : TRUE COPY OF THE REPRESENTATION DT 23.05.2013
- EXT.P9 : TRUE COPY OF THE CIRCULAR DATED 14.10.2013 OF THE DIRECTOR, ADMINISTRATION, OF THE UGC
- EXT.P10 : TRUE COPY OF THE CIRCULAR DT 5.5.2004 OF UGC
- EXT.P11 : TRUE COPY OF THE CIRCULAR DT 287.1993 OF THE UGC
- EXT.P12 : TRUE COPY OF THE REGISTRATION ISSUED BY BHARATIYAR UNIVERSITY, COIMBATORE

RESPONDENTS EXHIBITS:

- EXT.R1(a) : TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE COMPANY
- EXT.R1(b) : TRUE COPY OF THE LETTER DT 1.6.2001 OF THE DIRECTOR, IIITMK, OFFERING APPOINTMENT TO THE PETITIONER, AS SOFTWARE ENGINEER MULTIMEDIA
- EXT.R1© : TRUE COPY OF THE LETTER DT 27.3.2003 OF THE DIRECTOR, IIITMK, OFFERING APPOINTMENT TO THE PETITIONER AS DESIGN ENGINEER, ON A REGULAR SCALE IN APRIL 2003
- EXT.R1(d) : TRUE COPY OF THE LETTER NO.SIIITMK/DIR-ADM/4950/2004 DATED 3.6.2004 CONFIRMING THE PETITIONER WITH EFFECT FROM 1.4.2004 IN THE POST OF DESIGN ENGINEER
- EXT.R1(e) : TRUE COPY OF THE MATERIAL DOWNLOADED FROM THE OFFICIAL WEBSITE OF THE INDIRA GANDHI NATIONAL OPEN UNIVERSITY
- EXT.R1(f) : TRUE COPY OF THE CERTIFICATE OF THE EXECUTIVE MBA PROGRAMME FURNISHED TO THE INSTITUTE
- EXT.R1(g) : TRUE COPY OF THE RELEVANT EXTRACT OF THE MINUTES OF THE 39TH MEETING OF THE BOARD OF DIRECTORS OF IIITMK

TRUE COPY

P.A TO JUDGE

K. VINOD CHANDRAN, J

W.P(C) No. 13597 of 2013

Dated this the 15th day of December, 2015

J U D G M E N T

The petitioner is concerned with re-designation of the petitioner's post as Assistant Engineer from the designation he now occupies as Design Engineer. The petitioner contends that the petitioner has a BTEC National Diploma-Computer Studies, from Brighton College of Technology, UK. The information downloaded by the 1st respondent Institute regarding the equivalency of such qualification, as stated in the counter affidavit dated 27.07.2013, is that the qualification is equivalent to higher secondary course in the Indian Academic system. The petitioner after acquiring the said qualification acquired a Post Graduation in "Executive MBA - IT management" from the Indira Gandhi National Open University.

2. The petitioner claims re-designation as Assistant Engineer on the basis of the decision of the Board in Ext.P7. The

respondent opposes it on the basis of the qualification of Assistant Engineer prescribed in Ext.P2.

3. A reading of Ext.P7 would indicate that any person who has a Post Graduate qualification in Technology/Management/PGDIT from IIITMK (the 1st respondent) with 7 years of experience in the institute, shall be considered for faculty positions. The petitioner obviously did not have such a qualification. The petitioner obtained a Post Graduate qualification, with only the basic qualification equivalent to a higher secondary qualification. Ext.P7 also would indicate that certain faculty positions were re-designated as Assistant Professors to comply with the AICTE norms and pay revision as stipulated by the AICTE (All India Council for Technical Education) was applied.

4. A reading of Ext.P3 would indicate that an Assistant Professor should have a Ph.D, with first class or

equivalent at the preceding degree in the appropriate branch with a very good academic record throughout and at least five years industrial/research/teaching experience. The learned Standing Counsel for the respondent submits that the words “ first class or equivalent at the preceding degree” would indicate that a person should at least have a first class in the post graduate degree in industrial/research/teaching experience. The petitioners contention that he is entitled to be considered at par with the party respondents who have been designated as Assistant professors by Ext:P-7 cannot be countenanced. The petitioner obviously does not have the qualification of the party respondents and whether the petitioner's qualification is identical and equivalent has not yet been considered by the 1st respondent.

5. The petitioner seems to have a Post Graduate degree in IT management. The submission of the respondent

organisation is that the petitioner has only a higher secondary, with an executive management post-graduation degree from the IGNOU. The petitioner, going by Exts: R1 (b) to R1(d) does not seem to have been appointed as a faculty. The norms have been revised only to comply with the AICTE norms which makes the post of Assistant Professor, as the entry level faculty of lecturer. Any person desiring such position would have to comply with the qualifications as prescribed by the AICTE. In such circumstance, petitioners case would have to be considered looking at the AICTE norms. The same is not produced herein, by the petitioner or by the respondent. This Court would hence only direct the first respondent to consider the claim of the petitioner and look at the AICTE norms, as to whether the petitioner's qualification would qualify for being re-designated as an Assistant Professor. Without any observation as to the merits

of the case, writ petition would stand disposed of. The petitioner has also a contention that the petitioner's qualification was considered as equivalent, to that acquired by a person from the 1st respondent itself, as indicated in Ext.P7, and it was hence the petitioner was appointed. If that be so, necessarily, the petitioner could be considered after he has seven years experience, even going by Ext.P7, argues the counsel. The issue has to be considered and written orders passed within a period of two months from the date of receipt of a certified copy of this judgment.

Writ petition is disposed of. No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma //true copy//

P.A to Judge