

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.10.2015

Delivered on : 28.09.2015

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN

W.P.Nos.31743 of 2014, 10509 and 10686 of 2015  
and M.P.Nos.1 and 2 of 2014, 1 and 2 of 2015

Dr.S.Kuppusamy ... Petitioner in all W.Ps.

Vs.

1.The Vice Chancellor,  
University of Madras,  
Chennai-5.

2.The Registrar,  
University of Madras,  
Chennai-5.

... Respondents 1 and 2  
in all W.Ps.

3.Dr.S.S.Sundaram,  
Associate Professor,  
Department of Indian History,  
Chepauk, Chennai-5.

.. Respondent No.3  
in W.P.No.14509 of 2015

Prayer in W.P.No.31743 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned appointment notification of Professor dated Nil as far as department of Indian History is concerned on the file of the 2<sup>nd</sup> respondent and quash the same and consequently direct the respondents to award promotion to the petitioner from Stage 3 to Stage 4 on and from 26.06.2013 as Associate Professor on the basis of UGC regulations prescribing the minimum academic performance and service requirements for promotion of teachers in Universities under carrier advancement scheme published in the Gazette of India dated 18.9.2010.

Prayer in W.P.No.10509 of 2015: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records relating to the impugned order in Official Communication No.D1(B)/TE/2015/R-63 dated 07.04.2015 on the file of the 2<sup>nd</sup> respondent and quash the same.

Prayer in W.P.No.10686 of 2015: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Official Communication No.D1 (B)/TE/CAS PROMOTION/2015/296 dated 07.04.2015 on the file of the 2<sup>nd</sup> respondent and quash the same and consequently direct the respondents to award promotion to the petitioner from Stage 3 to Stage 4 on and from 26.06.2013 instead on 13.01.2015 on the basis of UGC regulations prescribing the minimum academic performance and service requirements for promotion of teachers in Universities under Career Advance Scheme published in the Gazette of India dated 18.09.2010.

For Petitioner : Mr.V.Lakshminarayanan  
for Mr.S.Arokia Maniraj

For Respondents : Mr.A.L.Somayaji, Advocate General  
assisted by  
Mrs.Narmatha Sampath  
for University of Madras in all W.Ps.  
Mr.R.Muthukumarasamy, Senior Counsel  
assisted by  
Mr.A.Jenasenan for R3 in  
W.P.10509/2015

#### C O M M O N O R D E R

The petitioners and the respondents are one and the same in these writ petitions and in view of commonality of the issues involved, all the writ petitions are disposed of by this common order.

W.P.No.31743 of 2014

2. The petitioner would state that he was appointed as a Lecturer in the Department of Indian History in the year 2000 and claims to have put in hard, sincere and unblemished record of service and on the date of filing of the said writ petition, he was holding the post of Assistant Professor in the same department and he is the next senior most Assistant Professor to Dr.G.Venkataraman, who was the Head of the Department of Indian History till 30.06.2014 and consequent upon his retirement, he is to be appointed as Head of the said Department as the senior most person in the order of hierarchy. However, the respondents had posted Dr.P.D.Balaji, who is holding the post of Head of the Department of Ancient History and Archeology with the additional in-charge of the post of Head of the Department of Indian History. The petitioner would further state that since he belongs to Scheduled Caste, which is a depressed class community, the respondents had followed unusual method of posting other department professor as the Head of the Department of Indian History and hence, came forward to file this writ petition. This Court, vide order dated 04.12.2014, has ordered notice of motion and taking into consideration the plea made by the petitioner, has passed an interim order permitting the

respondents to proceed with the notification and insofar as appointment of Professor to the Department of Indian History is concerned, made it clear that no appointment can be made, until further orders.

W.P.No.10509/2015

3. The petitioner would contend that after he made a challenge to the notification in W.P.No.31743 of 2014, the respondents 1 and 2 had passed orders promoting the petitioner from Assistant Professor to Associate Professor with effect from 13.01.2015 instead of 26.06.2014 and consequently the third respondent was promoted on 07.04.2015 with effect from 12.06.2014 with an intention to supersede the seniority, though he is eligible for promotion to the post of Head of the Department of Indian History on and from 26.06.2013. The petitioner would further state that the petitioner was promoted from Assistant Professor Stage 2 to Stage 3 with effect from 26.06.2010, whereas the third respondent, who is junior to him, has got promotion on 12.06.2011 and though he is entitled to get promotion on and from 26.06.2010, it was given only on 06.11.2014 after four years and in the interregnum, he should have been given promotion as Associate Professor on or before 26.06.2013 after completion of three years of service in Stage 3, by virtue of UGC regulations prescribing the minimum academic performance and service requirements for promotion of teachers in Universities under Career Advance Scheme (CAS) published in the Gazette of India dated 18.09.2010. The petitioner was also awarded promotion to Stage 4 with effect from 13.01.2015 instead of promoting him from 26.06.2013. It is the specific claim of the petitioner that in order to be eligible for promotion for every stage for CAS, the petitioner has completed and attended the course programme from among the categories of methodology workshop, training, teaching-learning-evaluation technology programme, soft skills development programmes of one week duration prior to assessment period as well as during the assessment period of all stages and despite fulfillment of necessary eligibility criteria, untoward discrimination is shown to him only with a view to delay the process of promotion and to promote the junior person, namely the third respondent, who belongs to upper class and challenging the order dated 07.04.2015 passed by the second respondent in placing the third respondent as Head In-charge, Department of Indian History and take charge of the said department and performance of duties as Associate Professor and Head In-charge of the said department, the petitioner came forward to file this writ petition.

W.P.No.10686 of 2015

4. The petitioner, challenging the order of the second respondent dated 07.04.2015 in awarding promotion as Assistant Professor in the Scale of Pay of Rs.37400-67000 with AGP of Rs.9000/- with effect from 13.01.2015 and monetary benefits with effect from the date of eligibility to the cadre, came forward to file this writ petition challenging the said order. The

petitioner has taken the very same stand taken by him in W.P.No.10509 of 2015 and would contend that he is eligible from 26.06.2013 and whereas he was given promotion from Stage 3 to Stage 4 only with effect from 13.01.2015 and thereby, shown discrimination and caste bias. The petitioner also expressed his grievance that though he possess necessary qualification and fulfilled all the norms and eligibility criteria for further promotion from Stage 3 to Stage 4 from 26.06.2013, he was given promotion only on 13.01.2015 and hence, prays for quashment of the said order. This Court has admitted the said writ petition on 13.04.2015 and ordered notice to the respondents.

5. In W.P.No.10509 of 2015, the second respondent, namely the Registrar, University of Madras, Chennai has filed a counter affidavit reputing the allegations made in the affidavit filed in support of this writ petition and would contend that the petitioner was appointed as Lecturer in the Department of Indian History on 14.12.2000 and his probation were declared and his services were confirmed with effect from 14.12.2002. The petitioner was placed under suspension on 14.11.2003, in pursuant to the resolution passed by the Syndicate dated 13.11.2003, based on the report of the preliminary enquiry, which establish a prima facie case on the allegation of demanding money and household articles by the petitioner from M.Phil. students working under his guidance. A domestic enquiry was conducted, which culminated into an order of punishment dated 19.05.2004, imposing the punishment of withholding of increments for a period of three years with cumulative effect under Rule 17A and the petitioner, challenging the legality of the said order, has filed W.P.No.23590 of 2007 stating that procedural violation has been done by the University in conducting the domestic enquiry and this Court, vide order dated 05.06.2012, has set aside the order of punishment and remanded the matter for fresh disposal in the light of the observations made in the said writ petition. Accordingly, a notice dated 21.9.2012 was issued to the petitioner and he has submitted his explanation dated 05.07.2012 and by resolution dated 21.03.2013, earlier punishment was withdrawn and he was awarded with the punishment of "Censure". It is further stated by the second respondent that since the petitioner was also placed under suspension for a period of six months before the original order of punishment, it was brought under currency by approving the date of his eligible date for promotion to the next stage i.e., Stage 2 in the cadre of Assistant Professor as 26.06.2005 and the next stage, namely Stage 3 of Assistant Professor, eligibility of the petitioner to become Stage 4 Assistant Professor coincided on 26.06.2010 and the petitioner was granted both promotions, namely Stages 2 and 3 in the cadre of Assistant Professor and it was communicated to him on 24.12.2014 and the petitioner did not dispute the contents of the above said proceedings dated 24.12.2014.

6. The second respondent would further state that next stage of Assistant Professor Stage 4 was re-designated as Associate Professor as per UGC guidelines dated 30.06.2010 and as per UGC norms, certain conditions have to be fulfilled/satisfied as eligibility criteria to be considered for promotion through the process of selection and the said criteria is as follows:

- i. Minimum API scores using the PBAS scoring proforma developed by the concerned University as per the norms provided in Table IIA/II(B) of Appendix III.
- ii. At least three publications in the entire period as Assistant Professor (twelve years). However, in the case of College teachers, an exemption of one publication will be given to M.Phil holders and an exemption of two publications will be given to Ph.D. holders.
- iii. One course/programme from among the categories of methodology workshops, training/teaching-learning-evaluation. Technology Programmes, Soft Skills Development Programmes and Faculty Development Programmes of minimum one week duration.
- iv. A selection committee process as stipulated in the regulation and in Tables II(A) and II(B) of Appendix III.

In para 11 of the counter affidavit, comparative chart between the petitioner and the third respondent has been made and it is relevant to extract the same:

| Sl.No. | Designation Re-Designation     | Petitioner | 3 <sup>rd</sup> respondent |
|--------|--------------------------------|------------|----------------------------|
| 1      | Assistant Professor            | 14.12.2000 | 12.06.2002                 |
| 2      | Assistant Professor, Stage II  | 26.06.2005 | 12.06.2006                 |
| 3      | Assistant Professor, Stage III | 26.06.2010 | 12.06.2011                 |
| 4      | Associate Professor            | 13.01.2015 | 12.06.2014                 |

7. It is contended by the second respondent that the petitioner fulfilled the above said requirements only on 13.01.2015 and therefore, he was given promotion as Assistant Professor and so far as the third respondent is concerned, he was already granted Career Advancement promotion from Assistant Professor Stage 3 to Associate Professor Stage 4 on 12.06.2014, much prior to the petitioner and thereby he has become senior most faculty in the Department of Indian History and hence, he was put in-charge of Head of the Department of Indian History, vide proceedings dated 07.04.2015. The petitioner, having accepted the seniority position of the earlier stages, cannot make complaint of the present impugned proceedings and his promotion under Career Advancement Scheme was considered by the

Selection Committee and his eligibility was examined and promotion was given on 13.01.2015 as an Associate Professor and the selection process was transparent and fair and hence, cannot make any complaint and prays for dismissal of these writ petitions.

8. The third respondent has filed M.P.No.2 of 2015 in W.P.No.10509 of 2015 to vacate the interim order dated 10.04.2015 made in M.P.No.1 of 2015 and in the affidavit/counter filed in support of the said petition, the third respondent would state that the process of promotion for the cadre of Associate Professor is not on the basis of seniority, but it is given after fulfilling the necessary criteria as stipulated by the UGC guidelines and he was also suspended from service between 14.11.2003 and 05.05.2004 for a period of six months based on the complaints given by the students studying M.Phil course alleging that the petitioner had demanded household articles and cash from them and the punishment of postponement of increment for a period of three years with cumulative effect was put to challenge in W.P.No.23590 of 2007 and it was allowed and remanded for fresh consideration and the Syndicate of the University of Madras has once again considered the issue and imposed the punishment of Censure. Insofar as the claim made by the petitioner that he has fulfilled UGC norms for promotion to the post of Associate Professor Stage 3 to Stage 4, the third respondent would contend that the application submitted by him for Career Advancement Scheme was scrutinized and it was found that he has not produced any documentary evidence to show that he has completed the short term course as required by UGC guidelines and a communication was sent by the second respondent and immediately the petitioner produced the certificates, whereby he claims to have participated in the National Workshop on "Tamil Kalvettukal Marrum Canka Illakiyankalil Tamilarkalin Kalai Illakkiya Panpattu Pativukal" held on 02.01.2015 to 12.01.2015 conducted by the Department of Ancient History and Archeology, University of Madras and admittedly, when he submitted an application on 04.08.2014, the petitioner did not fulfill the requirements of UGC guidelines as stipulated in Sl.3 (iii) and he completed the course completion certificate after 12.01.2015. The third respondent placing reliance upon Clause 6.3.12(b) of the UGC guidelines published in Government of India Gazette which stipulates that "if, however, the candidates find that he/she fulfills the eligibility conditions at a later date, and applies on that date and is successful, his/her promotion will be effected from that date of application fulfilling the criteria and since the petitioner has complied with the said norms after after 12.1.2015, the third respondent became senior to him in the cadre of Associate Professor".

9. The third respondent also picked holes in the claim projected by the petitioner by stating that the petitioner has to obtain prior permission from the second respondent in order to participate in the short term course, however he has not

produced any prior permission from the second respondent for attending the course held between 02.01.2015 and 12.01.2015 and according to UGC norms, the candidates applying for promotion should have participated in the short term course for the period of one week, but the certificate of the resource person produced by the petitioner would indicate that he has participated and presented the paper titled "Cultural Life of Tamils as Gleaned from Sangam Literature" in the National Workshop held between 02.01.2015 and 12.01.2015 and consequently, the said certificate does not fulfill the norms stipulated by UGC. The second respondent has also acted purely for the reason that the petitioner has furnished a certificate to the effect that he has completed short term course on 12.01.2015 and he was given promotion on the next day on 13.01.2015 as Associate Professor and therefore, the procedure adopted by the University of Madras cannot be faulted with. The third respondent would further contend that in the cadre of Associate Professor, admittedly he is the senior most person and putting him In-charge of the Department of Indian History, cannot be termed as a promotion and since he is the senior most person, he was placed as the Head of the Department In-charge and by virtue of the interim orders passed by this Court and that he is not in a position to act as the Head of the Department In-charge and prayed for vacating the interim order passed by this Court and dismissal of the writ petition.

10. The learned counsel appearing for the petitioner would contend that placing the petitioner under suspension, pendency of the disciplinary proceedings and the earlier order of postponement of three increments with cumulative effect cannot be put against him for the reason that it was put to challenge by filing writ petition and it was allowed and remanded and the issue was reconsidered and the petitioner was awarded the punishment of Censure and even the currency of punishment has already been over and thereafter got two promotions also. It is the further submission of the learned counsel appearing for the petitioner that the third respondent, namely Dr.S.S.Sundaram was conferred with Degree of Doctor of Philosophy by the Faculty of Arts and the Senate of the University of Madras in the year 2000 for the thesis entitled "Small Scale Industries in Tamil Nadu: A Study of Industrial Estates in Dharmapuri District" (History -Public Affairs) (Inter-disciplinary) and whereas the petitioner is the Doctorate in History and all along, he is working in the Department of History and also invited the attention of this Court to Clause 6.4.2. of the UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010 and would contend that as per the said regulation, an entry level Assistant Professor, possessing Ph.D. Degree in the relevant discipline shall be eligible, for moving to the next higher grade (stage 2) after completion of four years service as Assistant Professor and admittedly the third respondent has been

awarded Doctorate only in the inter-disciplinary subject and not in the main subject, namely History and therefore, he lacks minimum eligibility criteria for getting promotion as Associate Professor.

11. It is also the contention of the learned counsel appearing for the petitioner that even as per Clause 6.4.4 of the said regulation which stipulates that "an entry level Assistant Professor who does not have Ph.D. or M.Phil, or a Master's Degree in the relevant professional course, shall be eligible for the next higher grade (stage 2) only after completion of six years service as Assistant Professor" and admittedly, the third respondent did not fulfill the said criteria and he was promoted to Assistant Professor Stage 2 within 4 years, though he should have completed six years of Assistant Professor and even as per the counter affidavit filed by the second respondent, for the post of Assistant Professor Stage 3, the petitioner was the senior most. Insofar as fulfillment of criteria for promotion as Associate Professor, it is the submission of the learned counsel appearing for the petitioner that the second respondent has sent a communication dated 25.12.2014, in respect of the application dated 04.08.2014 submitted by him, wherein it is stated that he has been asked to submit documentary evidence for attending one course/programme from among the categories of Methodology workshops, Training, Teaching-Learning-Evaluation Technology Programmes, Soft Skills development programmes of minimum one week duration, during the assessment period from 26.06.2010 to 25.06.2013 to process his application for CAS promotion from Assistant Professor Stage 3 to Associate Professor Stage 4, as per the UGC Regulations 2010 and in response to the said communication, the petitioner has sent a reply dated 25.03.2015 pointing out that he has fulfilled all the requirements as per the UGC Regulations by participating in one Orientation Course of three weeks duration and carried on excellent academic activities and on 26.06.2005 he became eligible to pass on from Assistant Professor Stage 1 to Assistant Professor Stage 2 and again during the assessment period from 14.12.2004 to 13.12.2009, he has attended one Refresher Course of 3 weeks duration and during the same period, he was active with many academic exercises and he became eligible from 26.6.2010 for Assistant Professor Stage 2 to Assistant Professor Stage 3 and similarly, during the assessment period from 14.12.2009 to 13.12.2012, he attended one academic course programme of one week duration and in the same period, he was actively involved in academic programmes and became eligible from 26.06.2013 for the post of Assistant Professor Stage 3 to Assistant Professor Stage 4 and consequently, he is entitled to be promoted as Associate Professor of History. It is also contended by the learned counsel appearing for the petitioner that to evidence the said facts, the petitioner has enclosed all the relevant documents and with malafide motive and exhibiting communal bias, his meritorious claim has been deliberately and unjustly overlooked to accommodate the third respondent and

therefore, the acts of the respondents 1 and 2 deserves condemnation and prays for quashment of the impugned orders and allowing these writ petitions and treat him as Associate Professor on and from 26.06.2013 and put him as Head of the Department of Indian History and prays for appropriate orders.

12. Per contra, Mr.A.L.Somayaji, learned Advocate General assisted by Mrs.Narmatha Sampath, learned counsel appearing for the respondents 1 and 2, namely the University of Madras would contend that the career record of the petitioner is not at all good for the reason that he has demanded household articles etc. from M.Phil. students, which led to the initiation of departmental proceedings culminating into punishment of postponement of increment for 3 years with cumulative effect and it was set aside by this Court in the writ petition filed by the petitioner and it was remanded for fresh consideration and on reconsideration, the petitioner was awarded with the punishment of Censure. The learned Advocate General would further contend that as per the communication of the second respondent dated 24.12.2014, for the purpose of processing of application submitted by the petitioner for CAS promotion from Assistant Professor Stage 3 to Associate Professor Stage 4, he was called upon to submit documentary evidence for the assessment period between 26.06.2010 and 25.06.2013 and admittedly, the petitioner has submitted resource person certificate issued by the Department of Ancient History and Archeology, University of Madras, Chennai-5 and Central Institute of Classical Tamil, Chennai-113 for having attended National Workshop on "Tamil Kalvettukkal Marrum Canka Ilakkiyankalil Tamilarkalin Kalai Illakkiyapattu Pativukal" and he attended the said workshop from 02.01.2015 to 12.01.2015 and the certificate issued in that regard came into being after the assessment period from 26.06.2010 to 25.06.2013 and since the credentials of the third respondent fulfilled all necessary and eligibility criteria, his claim was considered by the Selection Committee and his eligibility was examined and promotion was given to him on 13.01.2015 as Associate Professor Stage 4, whereas the petitioner, in terms of his own certificate, fulfilled the said criteria on 12.01.2015 and therefore, his claim was considered and he was given promotion as Associate Professor on the same day i.e., on 13.01.2015 and in the cadre of Associate Professor, the third respondent was the senior most and his qualifications/credentials were assessed by the Selection Committee and thereafter only, he was conferred with Associate Professorship and hence, it cannot be faulted with. The learned Advocate General has invited the attention of this Court to the Gazette Notification dated 18.09.2010 and as per Appendix III - Minimum Academic Performance and Service Requirements For Promotion Of Teachers in Universities and Colleges, for promotion from Assistant Professor Stage 3 to Associate Professor Stage 4, the Assistant Professors should have completed three years of service in Stage 3 and shall also fulfill the following requirements:

I. Minimum API scores using the PBAS scoring proforma developed by the concerned university as per the norms provided in Table IIA/II(B) of Appendix III.

II. At least three publications in the entire period as Assistant Professor (twelve years). However, in the case of College teachers, an exemption of one publication will be given to M.Phil. holders and an exemption of two publications will be given to Ph.D. holders.

III. One course/programme from among the categories of methodology workshops, Training, Teaching-Learning-Evaluation Technology Programmes, Soft Skills development programmes and Faculty Development Programmes of minimum one week duration.

IV. A selection committee process as stipulated in this regulation and in Tables II(A) and II(B) of Appendix III.

and admittedly the petitioner fulfilled the eligibility criteria No.III only on 12.01.2015 and on the next day itself, he was given promotion for CAS as Associate Professor Stage 4, with effect from 13.01.2015 and it is also not automatic for the reason that the Selection Committee has processed the same as stipulated in the said Regulation in Table II(A) and II(B) of Appendix III.

13. The learned Advocate General has drawn the attention of this Court to the UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010 and would contend that as per para 6.3.12 (a) if a candidate applies for promotion on completion of the minimum eligibility period and is successful, the date of promotion will be from that of minimum period of eligibility and as per para (b), if, however, the candidates find that he/she fulfills the eligibility conditions at a later date, and applies on that date and is successful, his/her promotion will be effected from that date of application fulfilling the criteria and since the petitioner fulfills the eligibility criteria only on 12.01.2015, he was given promotion under CAS with effect from 13.01.2015 and it is strictly in accordance with the relevant norms and regulations and therefore, the submission made by the learned counsel appearing for the petitioner, in this regard, deserves rejection. Insofar as the plea made by the petitioner that since the petitioner belongs to Schedule Caste community and caste bias has been exhibited, the learned Advocate General would submit that the said plea deserves condemnation in the light of the above facts and circumstances and it also shows that the petitioner is very much desperate and wants to get into

the position of In-charge of the Head of the Department of Indian History and considering the position a person holds as Head of the Department of History, University of Madras, the said stand of the petitioner cannot be appreciated at all and therefore, the learned Advocate General prays for dismissal of this writ petition and vacating the interim orders.

14. Mr.R.Muthukumarasamy, learned Senior Counsel appearing for the third respondent would submit that in W.P.No.31743 of 2014, the petitioner made a challenge to the admission notification issued by the second respondent inviting application from eligible candidates for the post of Professor from various departments and in respect of Indian History Department, there is a vacancy for one post and the community earmarked is no reservation and in response to the said vacancy, the petitioner has also submitted an application and participated in the selection process and the said fact has been suppressed in the said writ petition as well as in the subsequent writ petitions and if the said fact was disclosed, interim orders would not have been granted in the said writ petition. It is the further submission of the learned Senior Counsel appearing for the third respondent that the petitioner has not fulfilled the academic eligibility/criteria and even as per his own admission, he has acquired the said qualification/benchmark only on 12.01.2015 and therefore, he was conferred with Associate Professorship under CAS with effect from 13.01.2015 and whereas the third respondent has got the qualification much prior to the petitioner and therefore, he was conferred with Associate Professorship with effect from 12.06.2014 and hence, he has become the senior most to be eligible and he has been put In-charge of the Head of the Department of Indian History only and not as the Head of the Department and since the second respondent has gone for direct recruitment for the post of Professors for various departments which include Indian History and though the petitioner has also participated in the selection process, he cannot claim as a matter of right that he should be made as the Head of the Department of Indian History and therefore, on that ground also, the plea made by the petitioner deserves outright rejection and therefore, prays for dismissal of this writ petition.

15. In response to the submission made by the learned Advocate General appearing for the second respondent, the learned Senior Counsel appearing for the third respondent submitted that admittedly the petitioner, in his reply dated 25.03.2015, in response to the communication of the second respondent dated 24.12.2014, has enclosed the Attendance Certificate issued by the University Grants Commission Academic Staff College of various departments, more particularly the Certificate of Participation issued by the UGC Academic Staff College, Pondicherry University in the National Workshop on Researcher Competency : Mapping Management & Disaster Management held on 13.03.2014 and 14.03.2014 and also produced very many

certificates right from 08.03.2010 and therefore, it is not open to the second respondent to contend that he lacks necessary qualification to become Associate Professor Stage 4 under CAS. Insofar as the submission made by the learned Advocate General appearing for the second respondent as to the punishment undergone by the petitioner, the learned counsel appearing for the petitioner reiterates that the punishment has been modified to one of Censure and the currency of punishment has already been over and thereafter, the petitioner has got two promotions also and only in order to weigh the mind of this Court, such a kind of argument has been put forth and would contend that admittedly the third respondent got Ph.D in the relevant subject, namely History and it is only an inter-disciplinary subject and therefore, on that ground also, the claim of the petitioner cannot be considered and put In-charge of the Department of Indian History.

16. The learned counsel appearing for the petitioner, in response to the submission made by the learned Senior Counsel appearing for the third respondent that the petitioner has suppressed his participation in the selection process for the post of Professor in Indian History in W.P.No.31743 of 2014 filed by him, would contend that it is not a relevant or material fact and the petitioner is basing his claim on the uncontroverted fact that throughout his career he was senior to the third respondent except the Associate Professorship and in the light of the eligibility certificates possessed by him, he should have been conferred with Associate Professorship on and from 21.06.2013 instead of 13.01.2015 and therefore, prays for allowing of these writ petitions.

17. This Court paid its best attention to the rival submissions and also perused the materials placed before it.

W.P.Nos.10509 and 10686 of 2015

18. It is the case of the petitioner that he was promoted from the post of Assistant Professor Stage 2 to Assistant Professor Stage 3 with effect from 26.06.2010 and the third respondent was awarded promotion on 12.06.2011 and a communication to that effect was sent on 6.11.2014 to the second respondent after four years. It is the claim of the petitioner that he should have been given another promotion on and from 26.06.2013 as Associate Professor Stage 4, after completion of 3 years of service as Associate Professor Stage 3 by virtue of UGC Regulations prescribing minimum academic performance and service requirements for promotion of teachers in Universities under Career Advancement Scheme, published in the Gazette of India dated 18.09.2010 and also expresses further grievance that he was awarded promotion as Associate Professor Stage 4 with effect from 13.01.2015 instead of promoting him from 26.06.2013.

19. Appendix III -Table III of Gazette of India notification dated 18.09.2010 speaks about Minimum Academic Performance and Service Requirements For Promotion of Teachers in Universities and Colleges and the minimum requirement in respect of Assistant Professor Stage 3 to Associate Professor Stage 4 has already been extracted above and the selection criteria for promotion of teachers through CAS from Assistant Professor Stage 3 to Associate Professor Stage 4 also involves selection process, as Selection Committee process is stipulated. University Grants Commission has also formulated regulations in exercise of powers conferred under Sections 26(1)(e) and (g) of UGC Act, 1956 and it was applied to every University established or incorporated by or under a Central Act, Provincial Act or State Act and as per proviso to Section 1.3, any candidate became eligible for promotion under Career Advancement Scheme prior to 31.12.2008, the promotion of such a candidate under CAS shall be governed by the provisions of the University Grants Commission (Minimum Qualifications Required for the Appointment and Career Advancement of Teachers in Universities and Institutions affiliated to it) Regulations, 2000.

20. In W.A.Nos.2187 and 2188 of 2013, filed by the Director, Indian Institute of Information Technology, Design and Manufacturing (IIITD &M), Kancheepuram, Chennai-600 127 and two others against Dr.B.Raja and 13 others, one of the issues arose for consideration was whether CAS is a mere formality or upgradation is to be done only on the recommendation of the duly constituted Selection Committee and Clause 6.0.0 of the above said Regulations speaks about selection procedures and it is relevant to extract the same:

"6.0.1. The overall selection procedure shall incorporate transparent, objective and credible methodology of analysis of the merits and credentials of the applicants based on weightages given to the performance of the candidate in different relevant dimensions and his/her performance on a scoring system proforma, based on the Academic Performance Indicators (API) as provided in this Regulations in Tables I to IX of Appendix III.

In order to make the system more credible, universities may assess the ability for teaching and/or research aptitude through a seminar or lecture in a class room situation or discussion on the capacity to use latest technology in teaching and research at the interview stage. These procedures can be followed or both direct recruitment and CAS promotions wherever selection committees are prescribed in these Regulations.

6.0.2. The Universities shall adopt these Regulations for selection committees and selection

procedures through their respective statutory bodies incorporating the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS) at the institutional level for University Departments and their Constituent colleges/affiliated colleges (Government/Government-aided/Autonomous/Private Colleges) to be followed transparently in all the selection processes. An indicative PBAS template proforma for direct recruitment and for Career Advancement Scheme (CAS) based on API based PBAS shall also be sent separately by the UGC to the universities. The universities may adopt the template proforma or may devise their own self-assessment cum performance appraisal forms for teachers in strict adherence to the API criteria based PBAS prescribed in these regulations.

....

6.0.5 (i) Besides the indexed publications documented by various discipline-specific databases, the University concerned shall draw through committee(s) of subject experts and ISBN/ISSN experts : (a) a comprehensive list of National/Regional level journals of quality in the concerned subjects (s); and (b) a comprehensive list of Indian language journals/periodicals/official publication volumes of language bodies and upload them on the University website which are to be updated periodically.

(ii) In respect of Indian language publications, equivalence in quality shall be prescribed for universities located in a State by a Co-ordination Committee of experts to be constituted by the Chancellor of the concerned State University.

(iii) At the time of assessing the quality of publications of the candidates during their appointments/promotions, the selection committees shall have to be provided with the above two lists which would be considered by the selections committees along with the other discipline-specific databases.

(iv) The UGC shall constitute a Committee as soon as practicable, in so far as acceptability of the (list of) Indian language journals so developed by Universities / States, to arrive at equivalence in quality of such publications with otherwise accepted and recognized journals.

6.0.6. The process of selection of Associate Professor should involve inviting the bio-data with the duly filled Performance Based Appraisal System (PBAS) proforma developed by the respective universities based on the API criteria provided in this Regulation and template separately provided. Without prejudice, to the requirements provided for selection of Associate Professor under this Regulation, the prescription of research publications for promotion from the post of Assistant Professor to Associate Professor in colleges shall be as follows:

(a) For those who possess a Ph.D. Degree, a minimum of one publication made during the period of service as Assistant Professor;

(b) for those with a M.Phil Degree, a minimum of two publications made during the period of service as Assistant Professor; and

(c) for those without Ph.D. Or M.Phil. Degree, at least three publications during the period of service as Assistant Professor.

Provided that in so far as teachers in Universities are concerned, three publications shall be required to be submitted for all the three categories mentioned above for consideration of promotion from Assistant Professor to Associate Professor.

Provided further that such publications shall be provided to the subject experts for assessment before the interview and the evaluation score of the publications provided by the experts shall be factored into the weightage scores while finalizing the outcome of selection by the selection committee."

It is also relevant to extract Appendix-III, Table II(B) which provides for minimum point norms for academic performance indicators as provided in Table A and weightages for expert assessment to be applied for the promotion of teachers in colleges (UG and PG) under Career Advance Scheme and it is relevant to extract minimum point norms in respect of Assistant Professors to Associate Professors/equivalent cadre:

|     |                                                                          |                                                           |                                                             |                                                                                  |                                                                                          |
|-----|--------------------------------------------------------------------------|-----------------------------------------------------------|-------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
|     |                                                                          | Assistant Professor /equivalent cadres Stage 1 to Stage 2 | Assistant Professor / equivalent cadres: Stage 2 to Stage 3 | Assistant Professor (Stage 3) to Associate Professor /equivalent cadre (Stage 4) | Associate Professor to Professor Promotion in Colleges (Stage 5) (as per assigned posts) |
| I   | Teaching-learning, Evaluation Related Activities (Category-I)            | 75/year                                                   | 75/year                                                     | 75/year                                                                          | 75/year                                                                                  |
| II  | Co-curricular, Extension and Profession related activities (category-II) | 15/year                                                   | 15/year                                                     | 15/year                                                                          | 15/year                                                                                  |
| III | Minimum total average annual score under Categories I and II             | 100/year                                                  | 100/year                                                    | 100/year                                                                         | 20/year                                                                                  |
| IV  | Research and Academic Contribution (Category III)                        | 5 year (20/ assessment period)                            | 10 year (50/ assessment period)                             | 15 year (45/ assessment period)                                                  | 20 year (60/ assessment period)                                                          |
|     | Expert Assessment System                                                 | Screening Committee                                       | Selection Committee                                         | Selection Committee                                                              | Selection Committee                                                                      |

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|   |                                                                                                                                   |                                                              |                                                              |                                                                                                                        |                                                                                                                        |
|---|-----------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|--------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
|   |                                                                                                                                   | Assistant Professor /equivalent cadres Stage 1 to Stage 2    | Assistant Professor / equivalent cadres: Stage 2 to Stage 3  | Assistant Professor (Stage 3) to Associate Professor /equivalent cadre (Stage 4)                                       | Associate Professor to Professor Promotion in Colleges (Stage 5) as per assigned posts                                 |
| V | Percentage Distribution of Weightage Points in the Expert Assessment (Total weightage = 100 Minimum required for promotion is 50) | No separate points. Screening Committee to verify API scores | No separate points. Screening Committee to verify API scores | 20%- Contribution to Research. 60%- Assessment of domain knowledge and teaching practices . 20%- Interview performance | 30%- Contribution to Research. 50%- Assessment of domain knowledge and teaching practices . 20%- Interview performance |

Explanatory note for Tables II(a) and II(b) reads as follows:

''...

6. Candidates should offer themselves for assessment for promotion, if they fulfill the minimum API scores indicated in Tables I and II, by submitting an application and the required proforma. They can do so three months before the due date if they consider themselves eligible. Candidates who do not consider themselves eligible, can also apply at a later date.

7. If however, on final assessment, candidates do not either fulfill the minimum criteria under Rows III and IV of Tables II(A) and II(B) or obtain less than 50% in the expert assessment, they will be reassessed only after a minimum period of one year.

8. (a) if a candidate applies for promotion on completion of the minimum eligibility period and is successful, the date of promotion will be deemed to be the minimum period of eligibility.

(b) If however, the candidate finds that she/he

fulfills the eligibility conditions at a late date and applies on that date and is successful, her/his promotion will be deemed to be from that date of application.

(c) If the candidate does not succeed in the first assessment, but succeeds in an eventual assessment, her/his promotion will be deemed to be from the later date."

The Division Bench of this Court, vide order dated 10.06.2014, while dealing with the above said issues, has taken into consideration the above said Regulations/guidelines and held that re-designation under CAS from the post of Assistant Professor to the post of Associate Professor is not automatic and is subject to selection procedure as contemplated under the above said statutory regulations and the Assistant Professors who are aspiring to become Associate Professors through promotion under CAS is subject to other conditions of academic performance laid down by UGC and University/institute after fulfilling the eligibility criteria.

21. The second respondent, vide official communication dated 24.12.2014, has asked the petitioner, who was the Assistant Professor and Head In-charge of the Department of Indian History to submit documentary evidence for attending one course/programme from among the categories of Methodology workshops, Training, Teaching-Learning-Evaluation Technology Programmes, Soft Skills Development Programmes of minimum one week duration, during the assessment period from 26.06.2010 to 25.06.2013 to process his application for CAS promotion from Assistant Professor Stage 3 to Associate Professor 4, as per the UGC Regulations 2010. The petitioner, in the consolidated typed set of papers, has enclosed the following certificates:

(1) Attendance Certificate issued by the University Grants Commission Academic Staff College, University of Madras for attending the short term course for Researches to prepare Research Design (Minor/Major) sponsored by the UGC for 5 days from 08.03.2010 to 12.03.2010.

(2) Attendance Certificate issued by the University Grants Commission Academic Staff College, University of Madras for attending the Refresher Course in Research Methodology for Social Sciences & Humanities, Batch IV (Interdisciplinary subject), sponsored by the UGC for 21 days from 16.07.2009 to 05.08.2009.

(3) Attendance Certificate issued by the UGC-Academic Staff College, University of Madras for attending the Refresher Course in Social Sciences, Batch-II, sponsored by the UGC for 21 days from

06.02.2007 to 26.02.2007.

(4) Participation Certificate issued by the Academic Staff College, University of Madras for having participated in the Orientation Programme from 16.11.2001 to 13.12.2001.

(5) Participation Certificate issued by the Academic Staff College, University of Madras for having participated in the short term course for Researchers to prepare Research Projects (Minor/Major) held from 08.03.2010 to 12.03.2010.

(6) Participation Certificate issued by the Academic Staff College, University of Madras for having participated in the Refresher Course in Research Methodology for Social Sciences & Humanities, Batch-IV (Interdisciplinary Subject) held from 16.07.2009 to 05.08.2009 and obtained Grade "A".

(7) Participation Certificate issued by the UGC Academic Staff College, Pondicherry University for having participated in the National Workshop for Research Guides held from 23.09.2010 to 24.09.2010.

(8) Participation Certificate issued by the UGC Academic Staff College, Pondicherry University for having participated in the National Workshop on Research Competency : Mapping, Management & Disaster Management held on 13.03.2014 and 14.03.2014.

22. The petitioner was given promotion under CAS from Assistant Professor Stage 3 to Associate Professor Stage 4 on 13.01.2015 and it is the stand of the respondents that the certificate issued by the Department of Ancient History and Archeology, University of Madras and Central Institute of Classical Tamil, Chennai-113 for the participation of the petitioner in the National Workshop on "Tamil Kalvettukal Marrum Canka Ilakkiyankalil Tamilarkalin Kalai Illakiya Panpattu Pativukal" on 12.01.2015 and therefore, he was given promotion with effect from 13.01.2015; however the third respondent, namely Dr.S.S.Sundaram was already granted promotion under CAS from Assistant Professor Stage 3 to Associate Professor Stage 4 with effect from 12.06.2014 and since he is senior in the cadre of Associate Professor Stage 4, he was put as Head In-charge of the Department of Indian History, University of Madras. It is pertinent to point out at this juncture that the authenticity of the certificates produced by the petitioner are not in serious dispute and only one certificate came into being after 25.06.2013 and the said certificate evidencing the participation of the petitioner and presentation of papers held in the National Workshop held from 02.01.2015 to 12.01.2015. It is not made clear in the counter affidavit filed by the second

respondent as to the performance evaluation done by the Selection Committee in respect of the certificates issued prior to 02.01.2015. It is also admitted in the counter affidavit filed by the second respondent that till the stage of Assistant Professor Stage 3, the petitioner was the senior most and in terms of the orders passed by this Court in W.P.No.18125 of 2014, he was also put Head In-charge of the Department of Indian History and by virtue of the third respondent being promoted as Associate Professor Stage 4 prior to the petitioner, he has been put in-charge of the said department as on date.

23. As per Clause 6.4.2 of the UGC Regulations 2010 (referred to above) an entry level Assistant Professor, possessing Ph.D. Degree in the relevant discipline shall be eligible, for moving to the next higher grade (stage 2) after completion of four years service as Assistant Professor. It is the submission of the learned counsel appearing for the petitioner that the third respondent has been conferred with a degree of Doctor of Philosophy in the year 2000 for the thesis entitled "Small Scale Industries in Tamil Nadu: A Study of Industrial Estates in Dharmapuri District" (History -Public Affairs) (Inter-disciplinary) subject and whereas the petitioner was conferred with the degree of Doctor of Philosophy in the very same subject itself, namely Indian History and on that ground also, the third respondent is disqualified.

24. Appendix-III, Table-III of the Gazette of India notification dated 18.09.2010 stipulates that for promotion of teachers through CAS for Assistant Professor/equivalent cadres from Stage 1 to Stage 2 is that they should be Assistant Professor Stage 1 and completed four years of service with Ph.D.. .... The said Appendix III Table III should be read along with Regulation 6.4.2. of the UGC Regulations 2010 (referred to above) and as per the said regulation, an entry level Assistant Professor, possessing Ph.D. Degree in the relevant discipline shall be eligible, for moving to the next higher grade (stage 2) after completion of four years service as Assistant Professor. The said position has not been clarified in the counter affidavit filed by the second respondent. Be that as it may, in the light of the certificates/testimonials produced by the petitioner, the Selection Committee is bound to consider the claim of the petitioner for giving promotion under CAS to the post of Associate Professor Stage 4 with effect from 26.06.2013.

25. Therefore, the impugned order of the second respondent dated 07.04.2015, which is the subject matter of challenge in W.P.No.10686/2015 is to be set aside and it is to be remanded to the Selection Committee for fresh consideration. Insofar as W.P.No.10509/2015 is concerned, till the Selection Committee undertakes and complete the process as to the entitlement of the petitioner to become Associate Professor Stage 4 with effect from 26.06.2013, the third respondent shall continue to be the Head In-charge of the Department of Indian History, as any

vacuum in the top would adversely affect the affairs and performance of the said Department as well as the students.

W.P.No.31743 of 2014

26. The second respondent has issued appointment notification inviting applications from eligible candidates for 22 posts of Professors in the University Departments situated at Chepauk, Marina, Guindy and Taramani campuses and the last date for submission of filled-in applications was 23.06.2014 and as per the notification for the post of Professor of Indian History also, applications were invited and it falls under non-reserved category. It is the case of the petitioner that he has been discriminated only with an intention to delay the process of appointment and to post someone belonging to upper cadre/caste and since he being the senior most after the retirement of Dr.G.Venkataraman, Head of the Department of Indian History, the respondents are bound to promote him as Head of the Department and in order to circumvent and supersede the orders passed by this Court, based on which he was posted as Head of the Department, the impugned notification has been issued.

27. Per contra, Mr.A.L.Somayaji, learned Advocate General would contend that the petitioner, in response to the advertisement, has submitted an application and also participated in the selection process, however for the reasons best known to him, has deliberately suppressed the fact of his participation and also obtained interim orders restraining the respondents from proceeding with the notification so far as appointment of Professor, Department of Indian History.

28. This Court has put a specific question to Mr.V.Lakshminarayanan, learned counsel appearing for the petitioner assisted by Mr.S.Arokia Maniraj, learned counsel on record as to the reasons for non-stating the said material fact in the affidavit filed in support of the said petition. In response to the query asked by this Court, the learned counsel appearing for the petitioner would contend that for the purpose of deciding this case, the said fact has no relevance for the reason that the petitioner, being the senior most in the Department of Indian History, ought to have been promoted as the Head of the Department or at least put as Head In-charge of the said Department and due to caste and communal factors, the rightful claim of the petitioner has been deliberately overlooked. In the considered opinion of the Court, the said submission/explanation offered on behalf of the petitioner is hardly satisfactory.

29. It is well settled position of law that once a candidate having accepted the terms and conditions of the notification for selection and having made the application and participated in the selection process, cannot turn around and challenge the same. The Hon'ble Supreme Court of India in Dhananjay Malik and Others v. State of Uttaranchal and Others

[(2008) 4 SCC 171] held as follows:

"7. It is not disputed that the respondent-writ petitioners herein participated in the process of selection knowing fully well that the educational qualification was clearly indicated in the advertisement itself as BPE or graduate with diploma in Physical Education. Having unsuccessfully participated in the process of selection without any demur they are estopped from challenging the selection criterion inter alia that the advertisement and selection with regard to requisite educational qualifications were contrary to the Rules.

8. In *Madan Lal v. State of J&K* [(1995) 3 SCC 486] this Court pointed out that when the petitioners appeared at the oral interview conducted by the members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned, the petitioners took a chance to get themselves selected at the said oral interview. Therefore, only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed writ petitions. This Court further pointed out that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted."

30. In the considered opinion of the Court, non-disclosure of material and relevant fact of the participation of the petitioner in the selection process for the post of Professor in the Department of Indian History, would definitely have a material bearing for deciding the merits of this case. Even otherwise, it is not even the case of the petitioner that such a kind of selection cannot be resorted to and no statutory infraction has also been pointed out. It was also open to the petitioner to file an additional affidavit expressing regret/apology as to the non-disclosure of the said material fact, but he has failed to do so. The petitioner, being in the responsible position as Associate Professor in the Department of Indian History in one of the old and famous Universities, is bound to know the consequences of non-disclosure of relevant and material facts, but unfortunately he has failed to come out with plausible/acceptable explanation. Therefore, W.P.No.31743 of 2014 deserves to be dismissed.

31. In the result,

(i) W.P.No.10686 of 2015 is partly allowed and

the impugned order of the second respondent in proceedings No.D1(B/TE/CAS Promotion/2015/296 dated 7.4.2015 is set aside and the matter is remanded to the first respondent for fresh consideration as to the claim for promotion of the petitioner from Assistant Professor Stage 3 to Associate Professor Stage 4 with effect from 26.06.2013 instead of 13.01.2015 and the first respondent/Selection Committee is directed to do the said exercise in accordance with the Statutes/Regulations/Norms and pass orders in accordance with law within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

(ii) W.P.No.10509 of 2015 is disposed of with a direction that till the first respondent in W.P.No.10686 of 2015 decides the entitlement of the petitioner to get promotion to the post of Associate Professor under Career Advancement Scheme with effect from 26.06.2013, the third respondent shall act as In-charge, Head of the Department of Indian History, University of Madras. No costs. Consequently, connected miscellaneous petitions are closed.

(iii) W.P.No.31743 of 2014 is dismissed. No costs. Interim order dated 04.12.2014 is vacated and the respondents are at liberty to proceed with the selection process in terms of the appointment notification for filling up the post of Professors in the Department of Indian History, University of Madras, Chepauk Campus, Chennai-5 and announce the results of the said selection process within a period of four weeks from the date of receipt of a copy of this order. Hence, connected miscellaneous petitions are dismissed.

Sd/-  
Asst.Registrar (CS II )

/true copy/

Sub Asst. Registrar

jvm

To

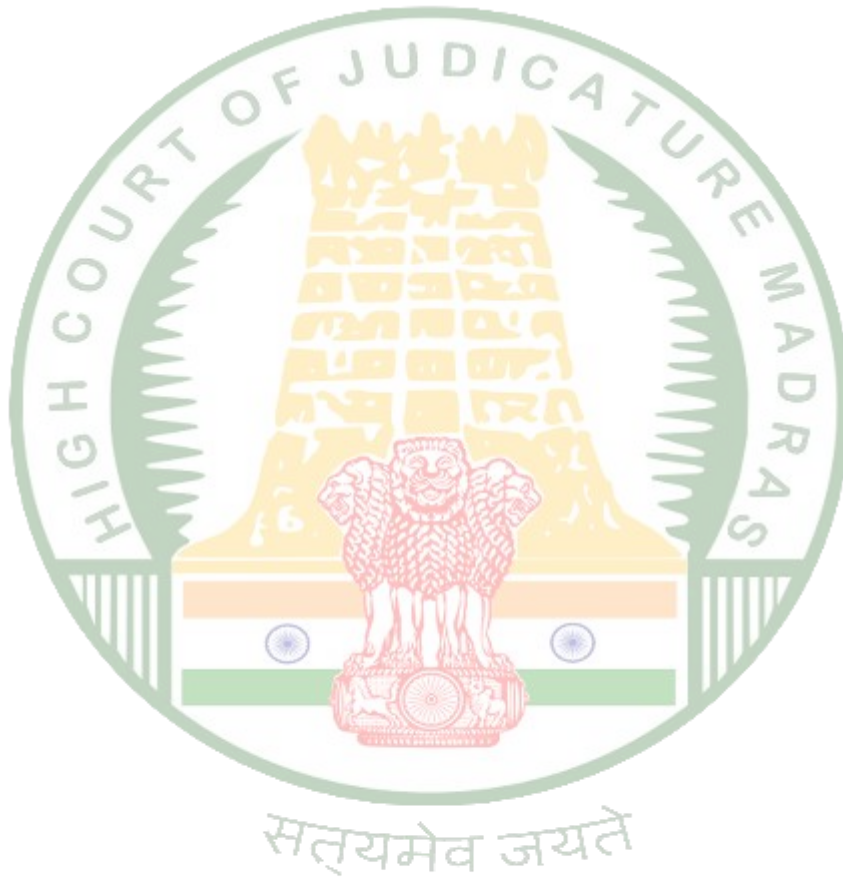
1.The Vice Chancellor,  
University of Madras,  
Chennai-5.

2.The Registrar,  
University of Madras,  
Chennai-5.

1 cc to Mr.A. Janasenan, Advocate, Sr. 55933  
1 cc to Mr.S. Arokia Maniraj, Advocate, Sr. 55844  
2 ccs to Mr.AR. Ramanathan, Advocate, Sr. 55818

W.P.Nos.31743 of 2014,  
10509 and 10686 of 2015

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