

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 12.02.2015

DATE OF DECISION: 16.02.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A. Nos.881 and 882 of 2014 & M.P. Nos.1 & 2 of 2014

Dr. Bolleddu Sivanagaiah

Appellant in both the
WAs/Petitioner

vs.

The Registrar
Central University of Tamil Nadu
Thanjavur Road
Tiruvarur
Tamil Nadu 610 004

Respondent in both the
WAs/Respondents

Writ Appeals preferred under Clause 15 of the Letters Patent against the common order dated 21.03.2014 passed by this Court in W.P.Nos.62 and 63 of 2013 respectively.

Prayer in W.P.No.62 of 2013: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondent to permit the petitioner to participate in the interview to be held on 03rd and 4th January 2013 for the post of Assistant Professor of English in Schedule caste category pursuant to the Employment notice No.2/CUTNT/T/2012 dated 06/06/2012 issued by the respondent and consequently direct the respondent to consider the petitioner for appointment to the post of Assistant Professor of English in Schedule caste category.

Prayer in W.P.No.63 of 2013: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondent to permit the petitioner to participate in the interview to be held on 03rd and 4th January 2013 for the post of Assistant Professor of English in General category (in W.P.No.62/13) Associate professor of English in General Category (in W.P.No.63 of 2013) pursuant to the Employment notice No.2/CUTNT/T/2012 dated

06/06/2012 issued by the respondent and consequently direct the respondent to consider the petitioner for appointment to the post of Assistant Professor of English in General category (in W.P.No.62/2013) and Associate Professor of English in General Category (in W.P.No.63/2013).

For appellant in
both the WAs

Mr. S. Sathiachandran
for Mr. S. Saravanan

For respondent in
both the WAs

Mr. T. Ravikumar

COMMON JUDGMENT

(Judgment of the Court was delivered by SATISH K. AGNIHOTRI, J.)

The instant writ appeals arise from the common order dated 21.03.2014 passed in W.P. Nos.62 and 63 of 2013 respectively, wherein, the prayer of the writ petitioner, seeking a direction to consider his case for appointment to the post of Assistant Professor in English in Scheduled Caste category and in General category in W.P.Nos.62 and 63 of 2013 respectively, has been turned down.

2 For the purpose of brevity and clarity, the parties are referred to as per their litigative status in the instant appeals.

3 The facts in nutshell, relevant for the adjudication of the dispute are that pursuant to the notice dated 06.06.2012, inviting online applications for appointment on the post of Professor/Associate Professor/Assistant Professor by the respondent university, the petitioner made an application for consideration to the post of Associate Professor in English. The qualification prescribed in the notice is as under:

"i. Good academic record with a Ph.D. Degree in the concerned / allied/relevant discipline.

ii. A Master's degree with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed).

iii. A minimum of eight years of experience of teaching and / or research in an academic / research position equivalent to that of Assistant Professor in a University, College or Accredited Research Institution/industry excluding the period of Ph.D. Research with evidence of

published work and a minimum of 5 publications as books and / or research/policy papers.

iv. Contribution to educational innovation, decision of new curricula and courses and technology - mediated teaching learning process with evidence of having guided doctoral candidates and research students.

v. A minimum score as stipulated in the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS), set out in the UGC Regulations, 2010.

The requirement of "good academic record" was defined under the heading "Note" of the aforestated notice and the same reads thus:

"NOTE:

1 Under the term "good academic record", the candidate must have obtained on an average of 50% marks in each of the two public examinations/degrees immediately preceding the Master's degree.

2 A relaxation of 5% may be provided at the graduate and Master's level for the SC/ST/Persons with Disabilities (Physical and Visual Disabilities) categories for the purpose of eligibility and for assessing good academic record during direct recruitment to teaching positions."

After shortlisting the applications, the list of candidates having the requisite qualification and experience for interview, was promulgated on 15.12.2012, wherein, the name of the appellant did not figure. Being aggrieved, the appellant preferred the two instant writ petitions, viz., W.P. No.62 of 2013 for consideration of his candidature under the Scheduled Caste category and W.P.No.63 of 2013, seeking a direction to permit him to participate in the interview and consequently, to consider him for appointment on the post of Associate Professor in English.

4 The Writ Court, by interim order dated 03.01.2013 permitted the petitioner to participate in the interview. Both the writ petitions were considered and decided by a common order and eventually, they were dismissed holding that the appellant had secured 40.6% marks in Higher Secondary Course-Intermediate (for short "HSC-Intermediate") and 44.5% marks in graduation, which is far below the eligibility criteria mentioned in Clause 5.18(a) of the notice and as such, he was not entitled to be considered for

appointment, as sought by him. Thus, these two writ appeals, questioning the legality and validity of the common impugned order dated 21.03.2014 passed by the Writ Court.

5 Sri. S. Sathiachandran, learned counsel for the appellant would submit that the appellant had obtained 3 Master's degrees in English, i.e., (i) M.A. (English) from Andhra University, (ii) M.A. (English) from Osmania University and (iii) M.Phil. (English) from Acharya Nagarjuna University and he has also completed Ph.D.(English) from Acharya Nagarjuna University. Thus, the appellant did possess the requisite 45% marks in two degrees, apart from one Master's degree. The appellant has 8 years of teaching experience, 7 publications and more than 5 papers to his credit. The other less meritorious candidates have been considered and appointed to the post in question. It is further contended that good academic record does not mean only securing more than 50% or 45% marks in graduation or HSC-Intermediate, particularly, in a case, where the appellant has obtained 3 Master's Degrees, securing more than 50% marks in each degree. Lastly, the learned counsel for the appellant has urged that the appellant belongs to Scheduled Caste community and as such, the appellant must be given relaxation to further his advancement in life, as he has been suffering for decades.

6 Per contra, Sri. T. Ravikumar, learned counsel for the respondent, would submit that the appellant partook pursuant to the notice, wherein, the qualification was clearly prescribed that good academic record means an average of 50% marks in each of the two public examinations/degrees immediately preceding the Master's degree and having regard to the social status, a relaxation of 5% was granted in respect of average of 50% marks, which was for the General category. It was next contended that the qualification, as aforesaid, has been determined on the basis of 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 (for short "the UGC Regulations"). The appellant has not chosen to challenge the legality and validity of the qualification prescribed in the notice and as such, he may not be permitted to plead that further relaxation is necessary, in case of those candidates who belong to Scheduled Caste category.

7 Heard the learned counsel for the parties, perused the pleadings and documents appended thereto.

8 Indisputably, the prescribed qualification for the post in question is good academic record with a Ph.D. Degree in the concerned / allied / relevant discipline, a Master's degree with at least 55% marks (or an equivalent grade in a point scale wherever grading

system is followed), a minimum of eight years of experience of teaching and / or research in an academic / research position equivalent to that of Assistant Professor in a University, College or Accredited Research Institution/industry, excluding the period of Ph.D. research with evidence of published work and a minimum of 5 publications as books and / or research / policy papers, contribution to educational innovation, decision of new curricula and courses and technology - mediated teaching learning process with evidence of having guided doctoral candidates and research students, a minimum score as stipulated in the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS), set out in the UGC Regulations. The term "Good academic record" has been defined under the heading "Note" of the notice. As per the said Note, a candidate is deemed to have good academic record, if he obtains on an average, 50% marks in each of the two public examinations/degrees, immediately preceding the Master's degree. It is further provided in the Note that relaxation of 5% is permissible at the graduate and Master's level for the SC/ST category candidates. This qualification is strictly in conformity with the requirements as notified under Clause 4.1.0 of the UGC Regulations.

9 It is beyond cavil that the appellant belongs to Scheduled Caste category and as such, for him, the requirement is average of 45% marks at the graduate level and 50% marks at the Master's level. The appellant did possess more than 50% marks in his Master's degree. Obtaining two Master's degrees in English from two different Universities, one with 53.4% and second with 58% cannot improve the position as the requirement is of having an average of 45% marks in graduation and other degree preceding the Master's degree. It is not disputed by the appellant that he had obtained 44.5% marks in graduation and 40.6% marks in HSC-Intermediate. It is pertinent to point out that HSC-Intermediate and graduation only can be treated as two public examinations/degree before the Master's degree, for, securing M.Phil. Degree, cannot be treated as a Master's degree.

10 Thus, we do not find any difficulty in holding that the appellant did not have good academic record as required under the notice dated 06.06.2012. It is also to be noted that the appellant has not questioned the legality and validity of the qualification prescribed under the notice, which was in accordance with the requirements of the UGC Regulations.

11 The second question which arises for our consideration is as to whether the appellant, belonging to Scheduled Caste category, ought to have been given more relaxation, keeping in view, the historical background.

12 Adverting to the argument of social justice and

backwardness, a Constitution Bench of the Supreme Court, in the matter dealing with requisite minimum benchmark for admission to medical course, in Dr. Preeti Srivastava and another vs. State of M.P. and Others¹, felicitously observed as under:

"67. The ambit of special provisions under Article 15 (4) has already been considered by us. While the object of Article 15(4) is to advance the equality principle by providing for protective discrimination in favour of the weaker sections so that they may become stronger and be able to compete equally with others more fortunate, one cannot also ignore the wider interests of society while devising such special provisions. Undoubtedly, protective discrimination in favour of the backward, including Scheduled Castes and Scheduled Tribes is as much in the interest of society as the protected groups. At the same time, there may be other national interests, such as promoting excellence at the highest level and providing the best talent in the country with the maximum available facilities to excel and contribute to society, which have also to be borne in mind. Special provisions must strike a reasonable balance between these diverse national interests."

13 The appellant is not the only candidate belonging to Scheduled Caste category. On a perusal of the list, we find that 10 other candidates, belonging to the Scheduled Caste and Scheduled Tribe categories, met the requisite qualification and were invited for interview. Thus, the contention of the learned counsel for the appellant in this regard, without questioning the legality of the notified qualification, is noticed to be rejected.

14 Thus, the reasons recorded by the Writ Court for coming to the conclusion that the writ petitions are devoid of merit, are perfectly valid and proper, warranting no interference.

15 As a sequel, both the writ appeals fail and they are accordingly dismissed. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

1 (1999) 7 SCC 120

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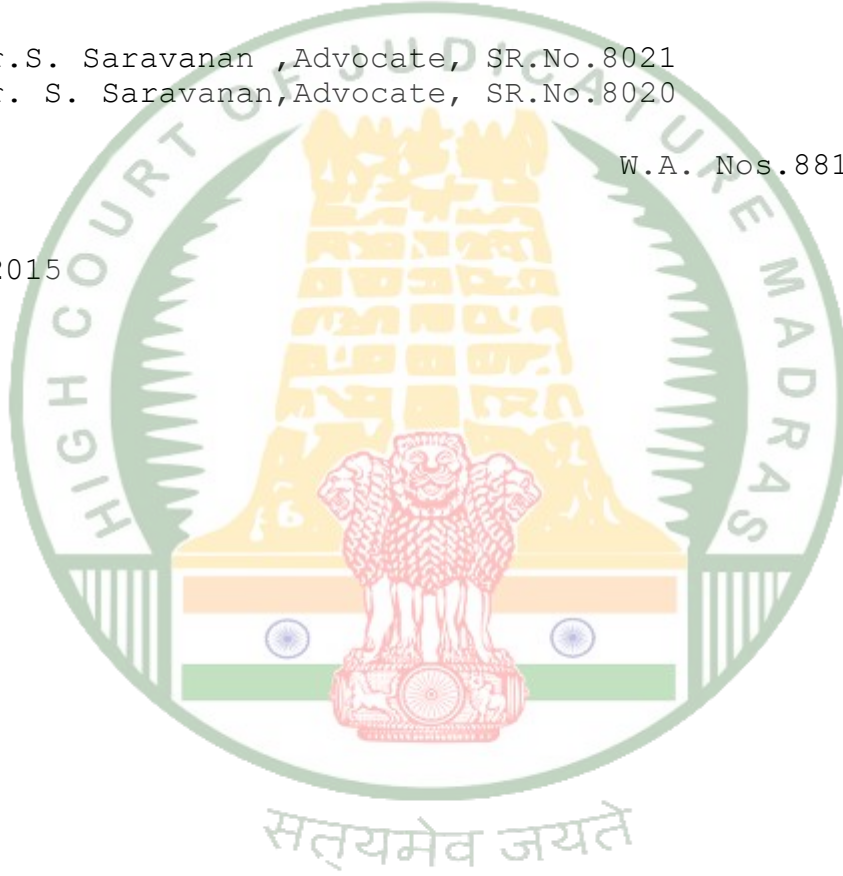
To

The Registrar
Central University of Tamil Nadu
Thanjavur Road
Tiruvavur
Tamil Nadu 610 004.

2 cc to Mr.S. Saravanan ,Advocate, SR.No.8021
2 cc to Mr. S. Saravanan,Advocate, SR.No.8020

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