

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2015

CORAM :

THE HON'BLE MR. JUSTICE V. DHANAPALAN
AND
THE HON'BLE MR. JUSTICE R.S. RAMANATHAN

Writ Appeal No: 969 of 2014

1. The Registrar
Anna University
Chennai - 600 025.
 2. The Vice Chancellor
Anna University
Chennai - 600 025.
 3. Syndicate Committee
Anna University
Sardar Patel Road
Chennai - 600 025.
- ... Appellants

-vs-

1. Dr. S. Chandramohan
B1, 7/4 Rangarajapuram I Street
MARS Foundation
Saidapet, Chennai - 600 015.
2. Dr. P. Mannar Jawahar (Ex. VC)
P1, Staff Quarters
Anna University
Chennai - 600 025.
3. Dr. Shanmugavel
(Ex. Registrar) Professor ECE
Anna University
Chennai - 600 025.
4. Dr. V. Rhymed Uthiriaraj
VCS Nominee
Director Ramanujam Computing Centre
Anna University, Chennai - 25.

5. Ramesh Chand Meena, IAS
(Government Nominees)
Secretary to Governor
Govt. of Tamil Nadu
Raj Bhavan
Chennai - 600 025.
6. Prof. G.T. Manohar
7. Dr. M.C. Vaidyalingam
8. Dr. B. Uma Maheswari
9. Dr. N. Kumaravel (HOD)
10. Dr. S. Rajendran Boopathy
11. Dr. S. Usha
12. Dr. V. Gowri Sree ... Respondents

Writ appeal under clause 15 of Letters Patent against the order of a learned single Judge of this Court dated 13.06.2014 made in W.P. No: 2454 of 2014, praying to issue a writ of Certiorarified Mandamus calling for the records relating to Minutes of the Selection Committee (comprised of respondents 4 to 12) dated 14.6.2012 which was constituted by 1st respondent for selection of the Post of Professor in Electrical and Electronics Engineering (EEE) Department read with the consequential order (Resolution) of the 3rd respondent bearing No.215.3.1 dated 22.6.2012 approving the selection of candidates for the Post of Professor in Electrical and Electronics Engineering (EEE) Department in which no candidate for SC (Arunthathiyar) has been found suitable to quash the same and consequently direct the respondent University to appoint the petitioner as Professor in Electrical and Electronics Engineering (EEE) Department in the SC (Arunthathiyar) vacancy as per the notification of the first respondent dated 14.01.2011.

For appellant : Mr. P.H. Arvind Pandian
Addl. Advocate General for
M/s. M. Vijayakumar

For 1st respondent : Mr.N.G.R. Prasad

For R2, R4 to R6 and
R8 to R 11 : No appearance

For resp. 12 : Mr. R. Mohana Raja

J U D G M E N T

(Judgment of the Court was delivered by V. Dhanapalan, J.)

Heard Mr. P.H. Arvind Pandian learned Additional Advocate General appearing for the appellant; Mr. N.G.R. Prasad learned counsel appearing for the 1st respondent and Mr.R. Mohana Raja learned counsel appearing for the 12th respondent. Despite service none appears for respondents 2, 4 to 6 and 8 to 11.

2. This writ appeal has been directed against the order of the learned single Judge made in W.P. No: 2454 of 2014 dated 13.06.2014. For the sake of convenience, we refer to the parties as refer to in the writ petition.

3. The Appellant, Anna University, issued an advertisement No: 001/PR15/2010 dated 14.01.2011 inviting applications for the

post in various Departments of Anna University and in that advertisement, column 18 was provided for filing up 3 vacancies for the post of Professor in Electrical and Electronics Engineering (EEE). Out of three vacancies, one is reserved for General Turn (GT); one for Schedule Caste (Arunthathiyar) (SC (A)) and one for Most Backward Class (MBC). The first respondent / writ petitioner is a candidate belonging to Schedule Caste and the 2nd respondent also belong to Schedule Caste.

4. Pursuant to the advertisement, several of the candidates made their applications including the writ petitioner and the 12th respondent herein. A Selection Committee was constituted by the Anna University to select the candidates suitably for appointment based on merits. The Selection Committee, consists of 9 members including the Vice Chancellor who was the Chairman of the Selection Committee. The Committee held its meeting on 14.06.2012. As many as 12 applicants were called for interview for the post of professor in the Department of EEE including the petitioner and the 12th respondent had equal marks namely 33 each and they were ranked at No. 7. No candidate out of these 12 belong to Scheduled Caste (Arunthathiyar) Community. Therefore, the Anna University did not select anybody out of the above 12 candidates. Aggrieved by the same, the petitioner filed the writ petition seeking issuance of a writ of certiorarified mandamus calling for the records relating to the Minutes of the Selection Committee (Comprised of respondents 4 to 12) dated 14.06.2012 which was constituted by 1st respondent for selection of the Post of Professor in Electrical and Electronics Engineering (EEE) Department read with the consequential order (Resolution) of the 3rd respondent bearing No. 215.2.1. dated 22.6.2012 approving the selection of candidates for the Post of Professor in Electrical and Electronics Engineering (EEE)

Department in which no candidate for SC (Arunthathiyar) has been found suitable to quash the same and consequently direct the respondent University to appoint the petitioner as Professor in EEE Department in the SC (Arunthathiyar) vacancy as per the notification of the first respondent dated 14.01.2011.

5. The learned single Judge, on consideration of the material information and the Government Order in G.P. Ms. No: 61, Adi Dravidar and Tribal Welfare (TD2) Department dated 29.05.2009 and the prospectus issued by the appellant University has come to the conclusion that when both the candidates namely the writ petitioner and the 12th respondent therein, have got equal marks, one has to go by the desirable qualification. As per prospectus, the candidate having "Post Ph.D. Publications" and "guiding Ph.D. Students" is desirable. The learned single Judge has taken note of the fact that the petitioner has got Post Ph.D. Publications as well as guided Ph.D. Students and the petitioner has produced documents in proof of the same which is not in dispute and proceeded to allow the writ petition by setting aside the non selection of the petitioner and directed the respondent University to appoint the petitioner as Professor in the Department of EEE as against the vacancy earmarked for Scheduled Caste (Arunthathiyar) as per the prospectus and further directed that the appointment order shall be issued by the respondents within the time frame fixed.

6. Mr.P.H. Arvind Pandian, learned Additional Advocate General appearing for the appellants has assailed the impugned order on the ground that the appellant University has constituted an expert committee consisting of leading and eminent experts for evaluating the merits of each candidate who has applied for the post. The said committee thoroughly scrutinised the qualification, experience and published works of each candidate. The committee sent the order of merit to the Syndicate wherein the writ petitioner and the 11th respondent herein were found not suitable for appointment under SC Arunthathiyar, which was accepted by the University and therefore, the order passed by the learned single Judge is liable to be set aside. Learned Additional Advocate General further submits that the opinion expressed by the experts especially in academic matters, when there is no malafide against the experts, should have been given due weightage by the Courts and that the decision of the Selection Committee can be interfered only on limited grounds such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the Selection or proved malafide affecting the selection etc. and therefore, the writ petition is misconceived and the view taken by the learned single Judge is not in accordance with law.

7. Resisting the said submission, Mr. N.G.R. Prasad learned counsel appearing for the 1st respondent would vehemently contend that when the Government has taken a policy decision to give

opportunity to candidates belonging to one category and another and accordingly, a Government Order has been issued, the same has been carried out in the prospectus of the University for implementation and such instruction will have a force and the Government Order as well as the prospectus will have a clear role to play in selection of the candidates. He pointed out that the candidates reserved for a particular category is not available, it is to be given to the candidates from the general category of that entry and therefore, when Scheduled Caste (Arunthathiyar) as stipulated in column 18 of the advertisement was not available, it is incumbent on the part of the Anna University and the expert body constituted for that purpose to select a person from the Scheduled Caste (General) and the minutes recorded by the expert committee constituted for selection have not exercised their power in a fair and appropriate manner and that they have not applied their mind to the Government Order as well as to the prospectus. He also made a plea that in a democratic system the object of Constitutional mandate has to be taken to a further level in order to give quietus to the issue.

8. Mr. R. Mohana Raja learned counsel appearing for the 12th respondent herein, by filing a counter affidavit, has contended that the 12th respondent, having guided nearly 100 + PG projects which have led to many publications and conference presentations, has got in depth experience in testing of High Voltage Power Apparatus for the past 15 years is fully qualified for the post of Professor in DEEE as Post Ph.D. Publications and guiding Ph.D students" is highly desirable. He would also submit that the selection committee, who are experts in the academic field, have considered the merit of the candidates and awarded marks and as such he is the most suitable candidate and hence, prayed for allowing the writ appeal.

9. We have heard the learned counsel on either side and perused the material documents made available on record.

10. An analysis of the case filed would reveal that Anna University, issued an advertisement No: 001/PR15/2010 on 14.01.2011 inviting applications for the post in various Departments in Anna University provided for filling up 3 vacancies for the post of Professor in Electrical and Electronics Engineering (EEE) in column 18. Out of three vacancies, one is reserved for General Turn (GT); one for Schedule Caste (Arunthathiyar) (SC (A)) and one for Most Backward Class (MBC). Several of the candidates made their applications including the writ petitioner and the 12th respondent herein. A Selection Committee was constituted by the Anna University consisting of 9 members including the Vice Chancellor who was the Chairman of the Selection Committee. The Committee held its meeting on 14.06.2012. As many as 12 applicants were called for interview for the post of professor in the Department of EEE including the petitioner and the 12th respondent who had equal

marks of 33 each and they were ranked at No. 7. No candidate out of these 12 belong to Scheduled Caste (Arunthathiyar) Community. Therefore, the Anna University did not select anybody out of the above 12 candidates. Aggrieved by the same, the petitioner filed the writ petition. According to the Anna University, the Committee interviewed the candidates through oral presentation of the subject of their specialization followed by conventional interview and evaluated the candidates in their technical knowledge, communication skill, publications made, projects handled, general attitude, etc. Based on the evaluation by the Selection Committee, the candidates were awarded marks and the gross total arrived at was used to rank the candidates in the order of merit. The Minutes of the Meeting of the Selection Committee constituted to interview and select the candidates for the post of Professor, Department of Electrical and Electronics Engineering, Anna University, Chennai, reveals that 12 candidates were called for interview for the said post and out of those 12 candidates, two candidates did not attend the interview. The Committee, then resolved to recommend to the Syndicate the candidates as per merit and communal reservation for appointment as Professor, Department of Electrical and Electronics Engineering in the Pay Band of 37400 - 67000 + AGP 10000. The Roster, community and the starting pay recommended were mentioned in the respective column shown in the minutes. Accordingly, it is seen that the Selection Committee has selected one Dr. S.Usa, who belong to Backward Community, in the General Turn category and recommended for approval. One Dr. G. Uma, who belongs to OC community, had been wait listed. As far as the roster for Scheduled Caste (Arunthathiyar) Community is concerned, it is stated that, "No one found suitable". As there was no selection of candidates, the University kept quite for some time and proceed with further selection process by issuing a fresh advertisement on 07.01.2014. In the said advertisement, in column No: 18, it has been notified that for the Scheduled Caste (Arunthathiyar) Community, the vacancy is "Carry Forward Vacancy". Finding that the University has not kept up the promise and aggrieved over the decision of the Selection Committee, petitioner has filed the writ petition seeking for issuance of a writ of certiorarified mandamus calling for the records relating to the Minutes of the Selection Committee (Comprised of respondents 4 to 12) dated 14.06.2012 which was constituted by 1st respondent for selection of the Post of Professor in Electrical and Electronics Engineering (EEE) Department read with the consequential order (Resolution) of the 3rd respondent bearing No. 215.2.1. dated 22.6.2012 approving the selection of candidates for the Post of Professor in Electrical and Electronics Engineering (EEE) Department in which no candidate for SC (Arunthathiyar) has been found suitable to quash the same and consequently direct the respondent University to appoint the petitioner as Professor in EEE Department in the SC (Arunthathiyar) vacancy as per the notification of the first respondent dated 14.01.2011.

11. As the appellant University has shown the vacancy earmarked for Scheduled Caste (Arunthathiyar) as carry forward vacancy, it is clear that the said vacancy has not been filled up pursuant to the advertisement dated 14.01.2011. The reason for non selection is stated to be "non availability of candidates". In case of non availability of candidates, what is the course to be adopted by the appellant University has to be examined by this Court.

12. It is seen that in the Government Order in G.O. Ms. No: 61 dated 29.05.2009, it has been specifically informed that,

" AMENDMENT

In the said Rules, in rule 3 in the illustration for the expression "The Seats to Arunthathiyars shall be offered in the rotation 2,32 and 66 ", the following expression shall be substituted, namely :-

" The seats to be allotted to Arunthathiyars on preferential basis shall be offered in the horizontal rotation such as 2,32 and 66. The preferential seats if filled up, it does not mean that the other qualified Arunthathiyars shall not compete with the rest of the Scheduled Caste members on inter-se merit basis; vice versa, if no qualified Arunthathiyars are available to fill up the preferential seats, it does not mean that the vacancies so arising shall not be filled up by the Scheduled Caste members on merit basis."

Even in the "Corrigendum" issued by the Anna University, which is enclosed in the typed set of papers, it has been stated that,

" 5. GENERAL INFORMATION AND INSTRUCTIONS

8. If no qualified and suitable candidates belonging to SC (Arunthathiyar) are available the seat reserved for SC (A) will be filled up by other SC members on merit basis. "

In the advertisement issued on 14.01.2011, in column No: 6, for the post of Professor in Engineering/ Technology/ Management/ Architecture/Planning, after the qualifications prescribed, it is stated that, "Post Ph.D. Publications and guiding Ph.D. Students is highly desirable".

13. From a reading of the above it is clear that, for selection of a candidate to the post in question, the appellant has to follow a particular procedure envisaged. The Anna University, being one of the prestigious institutions, is expected to follow the guidelines stipulated in the Government Order as well as in its

own prospectus. But, surprisingly, the Selection Committee, which met on 14.06.2012, has recommended only two names viz. Dr. S. Usa and Dr. G.Uma, belonging to BC and OC respectively, to the Syndicate. Out of these two while Dr.S.Usa is selected in the General Turn Roster, Dr. G. Uma is wait listed. In the same minutes it is stated that under the category Scheduled Caste (Arunthathiyar) "No one found suitable". From the minutes produced, it is clear that both the writ petitioner and Dr. V.Gowri Sree belonging to Scheduled Caste community were among the candidates who attended the interview. There was no other Scheduled Caste candidate. The stand taken by the appellant before the learned single Judge is that since both the candidates i.e. the writ petitioner and Dr.V.Gowri Sree, who belong to Scheduled Caste and who are entitled to be considered as against the said vacancy earmarked for Scheduled Caste (Arunthathiyar), had secured equal marks, they were not selected and the vacancy was not filled up. By no means, one can appreciate this stand of the Anna University that when both candidates secure equal marks in an examination, they will not consider both the candidature for the post prescribed. It is quite natural that once when two candidates secure equal marks in an examination and only one can be selected for the post, the authorities have to prefer one among the two and on the score that they got equal marks, they cannot reject both the candidates. It is not as if, the Selection Committee had no other option so as to arrive at a solution regarding the selection. It is very clearly stated in the prospectus that, " Post Ph.D. Publications and guiding Ph.D. Students is highly desirable." It is borne out from records that the writ petitioner has guided 9 students for Ph.D. and has also published Post Ph.D. Publications in international journal and that the other candidate viz. Dr.V.Gowri Sree does not possess these qualifications. Before the learned single Judge, Dr.V.Gowri Sree had appeared in person and said that she had no occasion to guide Ph.D. Students, but she had guided Under Graduate and Post Graduate students. She had further submitted that as on the date of prospectus, she had not published any Ph.D. Publications in any journal but, subsequent to the same, she had published certain articles in the International Journals. From this it is categorically clear that the writ petitioner, in fact, has the desirable qualifications to his credit when compared to the other candidate who has also scored equal marks that of the writ petitioner in the interview. As regards the "desirable qualifications", the writ petitioner has also produced documents in proof of the same, which is not disputed by anyone.

14. Thus, looking at any angle, we are of the considered opinion that the learned single Judge has considered every aspect of the matter in an appropriate perspective and, therefore, we have no hesitation to confirm the view taken by the learned single Judge.

Accordingly, this writ appeal stands dismissed confirming the order passed by the learned single Judge in the writ petition. There shall be no orders as to the costs. Connected M.P.No. 1 of 2014 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gp

To

1. The Registrar
Anna University
Chennai - 600 025.
2. The Vice Chancellor
Anna University
Chennai - 600 025.
3. The Syndicate Committee
Anna University
Sardar Patel Road
Chennai - 600 025.

+1cc to Mr.M.VijayaKumar, Advocate, S.R.No.22173
+1cc to M/s.Row & Reddy, Advocate, S.R.No.22264

W.A. No. 969 of 2014

KU(CO)
CA(27/05/2015)

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