

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.06.2015

Date of Reserving the Order	Date of Pronouncing the Order
11.06.2015	19.06.2015

CORAM

The Hon'ble Mr. Justice T.S. SIVAGNANAM

W.P.No.33750 of 2014 &
M.P.No.1 of 2014 and M.P.No.1 of 2015

1. Dr.K.Sivaji
Assistant Professor - Stage III Department
of Nuclear Physics University of Madras
Guindy Campus Chennai 600 025 ... PETITIONER

Vs

1. University of Madras
Rep by its Registrar Chepauk
Chennai 600 005
2. The University Grant
Commission Rep by its Secretary Bahadur
Shah Zafar Marg
New Delhi 110 002
3. Dr.C.Venkateswaran
Associate Professor Department of Nuclear
Physics University of Madras Guindy Campus
Chennai 600 025
4. Dr.K.Ravichandran
Assistant Professor - Stage II Department
of Nuclear Physics University of Madras
Guindy Campus Chennai 600 025
5. Dr.A.Stephen
Associate Professor Department of Nuclear
Physics University of Madras Guindy Campus
Chennai 600 025

6. Dr.J.Senthil Selvan
Assistant Professor - Stage II Department
of Nuclear Physics University of Madras
Guindy Campus Chennai 600 025
7. Dr.G.Anbazhagan
Associate Professor Department of Physics
Presidency College Kamarajar Salai
Triplicane Chennai 600 005

... RESPONDENT

Prayer :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus to direct the first respondent to strictly comply with 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 educations, 2010 as amended in August 2014" with respect to the direct recruitment of Professor in nuclear physics department.

For petitioner : Mr.V.Lakshmi Narayanan

For Respondents : Mr.A.L.Somayajee Advocate General
Assisted by
Mr.R.Vijayakumar AGP for R1
Mr.S.Mohan for R4
Mr.U.Karunakaran for R7
No Appearance for RR2, 3, 5 & 6

O R D E R

The petitioner who is presently working as an Assistant Professor in the Department of Nuclear Physics, University of Madras, has filed this Writ Petition for a direction upon the University of Madras (hereinafter referred to as 'respondent University') to strictly comply with 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 educations, 2010, as amended in August 2010, with respect to the

direct recruitment to the post of Professor in the Department of Nuclear Physics.

2. At the time when the Writ Petition was admitted on 19.12.2014, an order of Interim Injunction was granted in M.P.No.1 of 2014. The respondent University has filed their counter affidavit along with a petition to vacate the order of Interim Injunction in M.P.No.1 of 2015. With the consent of the learned counsels appearing for the parties, the Writ Petition itself is taken up for final disposal.

3. The respondent University caused an advertisement in the newspapers calling for applications from eligible candidates for various posts including one post of Professor in the Department of Nuclear Physics arising in a General Turn vacancy. It is submitted that as per the UGC Regulations, 2010, the minimum qualification is a Ph.D., with published work of high quality, active research with minimum of 10 publications as books and/or research/policy papers; a minimum of 10 years of teaching experience; contribution to educational innovation etc., and a minimum score as stipulated in the Academic Performance Indicator (API) based on Performance Based Appraisal System (PBAS) set out in the Regulation or in the alternative, an outstanding professional with established reputation in the relevant field who has made significant contribution to the knowledge in the discipline concerned; to be substantiated with credentials and Ph.D degree being mandatory qualification for appointment as Professor. The petitioner and the respondents 3 to 7 applied for the said post of which the seventh respondent alone is an external candidate and all others are internal candidates currently working in the Department of Nuclear Business. The seventh respondent is working in the department of Physics, Presidency College. Pursuant to the application, six candidates were called for interview including the petitioner of which one did not attend the interview. The petitioner admitted that he has attended the interview held on 21.11.2014.

4. By this Writ Petition, the petitioner states that in addition to the qualifications and credentials, which were submitted, as per the UGC Regulations, a candidate to the post of Professor by direct recruitment should possess a minimum score of 400 as stipulated in the API based on PBAS and unless and until the applicant has this qualification and has a minimum score of 400, the question of being eligible to apply does not arise and they are not to be considered. Therefore, the petitioner would state that the respondent University is bound by the UGC Regulation stipulating the minimum API score as prescribed in the Regulation and without adhering to the same, the respondent University has constituted a Selection Committee and the

procedure adopted by the respondent University is illegal. Further, it is submitted that the UGC Regulations require that prior to the Selection, the University has to evaluate the research papers by the experts with the assessment report and marks awarded in case of CAS promotions. The petitioner would state that he was surprised to find when he attended the interview that candidates who have been called, have secured less than 400 points as API score, which revealed that no evaluation was done by the subject experts and the selection process is contrary to the UGC Regulations, which is mandatory. It is further submitted that the manner of evaluation for direct recruitment to the post of Professor, has not been adhered to and the minimum 400 points API requirement has been given a go-by. By relying upon the counter affidavit filed by the fourth respondent stating that in his self appraisal, he has stated that he had 160 points and was not confident of not being called for interview, but he was called for interview, which would go to show that there has been no evaluation. It is further submitted that the selection committee in utter disregard to the UGC Regulations has awarded marks to all candidates and several of the applicants including the fourth respondent do not have the minimum requirement and therefore, ineligible to be considered for appointment to the post of Professor. It is further submitted that the petitioner has also submitted a representation before the Vice Chancellor and there was no response to the representation and therefore, he has approached this Court by way of this Writ Petition for the aforementioned relief.

5. Mr.V.Lakshmi Narayanan, learned counsel appearing for the petitioner after setting out the above mentioned facts referred to the UGC Regulations and submitted that the qualification required for direct recruitment to the post of Professor as stipulated in the UGC Regulation is that a minimum score as stipulated in the API based on PBAS as set out in the regulation in appendix III, the minimum requirement is 400 points. Therefore, it is submitted that a person who does not possess this score, cannot be eligible to apply for the post and the respondent University has given a go-by to the UGC Regulations. Further by referring to clause 6.0.6 of the Regulations, it is submitted that the procedure contemplated therein to be followed for selection, has not been adhered to. Further, by referring to clause 6.3.2, it is submitted that candidates, who do not fulfil minimum score requirement under the API scoring system or those who obtained less than 50% in the expert assessment of the selection will have to be re-assessed only after a minimum period of one year. The learned counsel referred to the API score as self assessed by the fourth respondent and submitted that even as per the fourth respondent, the total score obtained by him is only 159.167 far less than the minimum requirement of 400, however the fourth

respondent was also called for interview. Therefore, it is submitted that these facts would be sufficient to hold that the selection process adopted by the respondent University is not in consonance with the UGC Regulations.

6. Mr.A.L.Somayajee learned Advocate General assisted by Mr.R.Vijayakumar, learned standing counsel for the respondent University submitted that the Writ Petition is pre-mature, has been filed on a wrong premise and liable to be dismissed. It is submitted that in response to the advertisement issued by the respondent University calling for applications for direct recruitment to the post of Professor in the Department of Nuclear Physics under the category 'General-GT', six candidates applied which includes the petitioner and the respondents 3 to 7. All six candidates were found eligible and were called for interview, however the third respondent did not attend the interview, which was held on 29.11.2014, as he attended the interview for his CAS promotion from Assistant Professor (Stage 4) to Professor (Stage-5). It is submitted that the applications received by the candidates, are scrutinised by "School Chair Person" and those who are found eligible, are called for interview. Five candidates attended the interview, which was held on 29.11.2014. Further, it is submitted that the publications and the Academic Performance Indicator (API) based on PBAS was placed before the experts for scrutiny on 28.11.2014 to evaluate the publications and the API scores as per the UGC guidelines, which states that the self assessment score will be based on verifiable criteria and will be finalised by the Selection Committee. It is further submitted that the API score and evaluation of publications of the candidates, as evaluated by the experts was placed before the Selection Committee which was held on 29.11.2014, as per the UGC guidelines and the same has been strictly adhered to. It is further submitted that it is not known as to whether the fourth respondent has secured only 160 points as his API score, since the evaluation done by the experts have been put in a sealed cover and to be placed before the Selection Committee in its meeting.

7. It is further submitted that the Selection Committee consist of the Vice Chancellor of the respondent University as its Chairman, Vice Chancellor of Mother Theresa University as the Chancellor's nominee, Chairperson, School of Physical Sciences of the respondent University and three experts one of whom is an expert and a Schedule Caste nominee. It is further submitted that previously the recruitment of Reader/Professor was done in terms of G.O.Ms.No.112, dated 24.03.1999, by placing the publications of the candidates for evaluation by experts before the conduct of the Selection Committee meeting and the marks obtained for publications were carried over

while determining the best suitable candidates for the post and at the relevant time, there was no API scoring. After the UGC Regulations 2010 came into force both API and publications are placed before the experts for scrutiny before the Selection Committee. Therefore, it is submitted that the API score and evaluation of publication are assessed by the experts before the suitability of the candidate is assessed by the Selection Committee made. Further, in the counter affidavit, the respondent have stated that the Selection Committee shall strictly adhere to the UGC guidelines and would recommend only the candidate who satisfy the minimum API score required to be appointed for the post of Professor. With the above submission, the learned Advocate General prayed for vacating the interim order granted and dismissal of the Writ Petition.

8. Mr.S.Mohan, learned counsel appearing for the fourth respondent submitted that the fourth respondent has filed an affidavit stating that on his self evaluation, he has secured only 160 points as his API score and he was under the impression that he will not be called for interview, as he did not possess the required API of 400, however, he was called for interview and he has performed well.

9. Heard the learned counsels appearing for the parties and perused the materials placed on record.

10. In the preamble of this order, the prayer sought for by the Writ Petitioner has been set out. The petitioner seeks for enforcing or implementing the UGC guidelines, insofar it relates to the direct recruitment to the post of Professor in the Department of Nuclear Physics of the respondent University in the category 'GT'.

11. The arguments putforth on behalf of the petitioner is two fold, firstly the respondent University has failed to adhere to the guidelines/regulations of the UGC. Secondly, the respondents 3 to 7 having not fulfilled the minimum criteria in securing 400 as their API score are ineligible to apply.

12. On the first issue raised by the petitioner, the respondents have undertaken and accepted that they will carry out the selection process strictly in accordance with the regulations and they will recommend only candidates who satisfy the minimum API score requirement for being appointed for the post of Professor. This undertaking has been made in more than one place in the counter affidavit filed by the Registrar of the respondent University. Therefore, the respondent University is bound by their statement in the counter affidavit that they will strictly abide by the UGC

Regulations. In such circumstances, it has to be seen as to how the petitioner seeks to make out a case of violation of the UGC Regulation. The contention raised by the petitioner is that apart from other qualifications prescribed the UGC guidelines specify that the candidate should have a minimum score as stipulated in the API based PBAS as set out in appendix III of the regulation, which states that the consolidated API score requirement of 400 points from category III of APIs. Therefore, the petitioner's submission is that unless and until the applicant/candidate has secured this minimum API score of 400, he is ineligible to apply.

13. On a careful reading of the UGC guidelines does not specify that this score should be certified prior to the submission of the application. In our words, the UGC guidelines does not state that the candidates should first get his API score evaluated and on such evaluation, if he secures the minimum score of 400, he would be eligible to apply. This requirement of minimum score is under clause 4.1.0 (A) (iv) and this requirement falls under the Chapter direct recruitment. In the absence of any such stipulation under the UGC guidelines, the respondent University cannot be faulted in receiving applications from candidates. The learned counsel for the petitioner argued that the counter affidavit states that all applicants namely, the petitioner and the respondents 3 to 7 were found eligible and by referring to an affidavit filed by the fourth respondent, who has self appraised his API score at 160, the petitioner tries to make out a case that the fourth respondent himself states that he does not possess the minimum API score yet he was called for interview and therefore, the entire procedure adopted has to be faulted.

14. Firstly, it has to be pointed out that the petitioner has not disclosed as to his API score based on his self assessment. In the absence of any requirement under the UGC guidelines to obtain prior evaluation of the API score much prior to the submission of application, the petitioner cannot seek to introduce a procedure not contemplated under the UGC Regulations.

15. It is not in dispute that at the time when the candidate applies while submitting his credentials along with his publications etc., he submits an Academic Performance Indicators Cumulative Score Table, this score table is based on a self assessment done by the candidate, since the table contains a declaration stating that the candidate declares the particulars furnished are true to his knowledge. A self assessment is always subject to approval and scrutiny by the competent authority. There may be cases where the self assessment could have been exaggerated or in certain cases underestimated. Therefore, self assessment of API score cannot be the

basis to throw out an application by a candidates for the said post. Curiously enough the petitioner has enclosed the application of the seventh respondent, but conveniently omitted to file his own application and his self appraisal of API score and this document has not been placed before this Court for best reasons known to the petitioner.

16. Admittedly, the selection process is yet to be over. The API based on PBAS is stated to have been placed before the experts, who are three in number, for scrutiny on 28.11.2014. The result of the scrutiny is yet to be disclosed. In the counter affidavit, it is stated that the same is kept in a sealed cover to be submitted to the Selection Committee. Therefore, the experts would have assessed, the self assessment forms submitted by the candidates self assessing their API score, the publications research projects, research guidance, papers presented in conference etc., and make an evaluation of each of the candidates. This is purely the job of an expert, in the field of academics and this Court will not venture into the manner of assessment, as it is best left to the decision of the experts.

17. It is only after such assessment is made, the Selection Committee will consider other para meters. The respondent University has undertaken that they will adhere to the UGC guidelines, 2010 and would recommend only the candidates, who satisfy the minimum API score required to be appointed for the post of Professor. Thus, the contentions raised by the petitioner does not merit acceptance. Firstly, there is no stipulation as sought to be canvassed by the petitioner under the UGC guidelines and there is no violation of the UGC guidelines and the procedure adopted by the respondent University cannot be faulted.

18. Having held that there is no violation of the UGC guidelines, the second contention raised by the petitioner should necessarily fail. The assessment by the experts though said to have been done is yet to be disclosed and kept in a sealed cover. It is for the Selection Committee to scrutinize the same and to take a final decision. The Selection Committee also consist of the three experts, who have to/shall evaluate the credentials of all the six applicants. Therefore, the contention raised by the petitioner that the respondents 3 to 7 are ineligible, even to apply for the post does not merit acceptance and stands rejected.

19. For all the above reasons, the petitioner has not made out a case for issuance of a Writ of Mandamus as sought for and accordingly, the Writ Petition stands dismissed. Consequently, the

order of interim injunction granted on 19.12.2014, stands vacated and M.P.No.1 of 2015 is allowed and M.P.No.1 of 2014 is dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

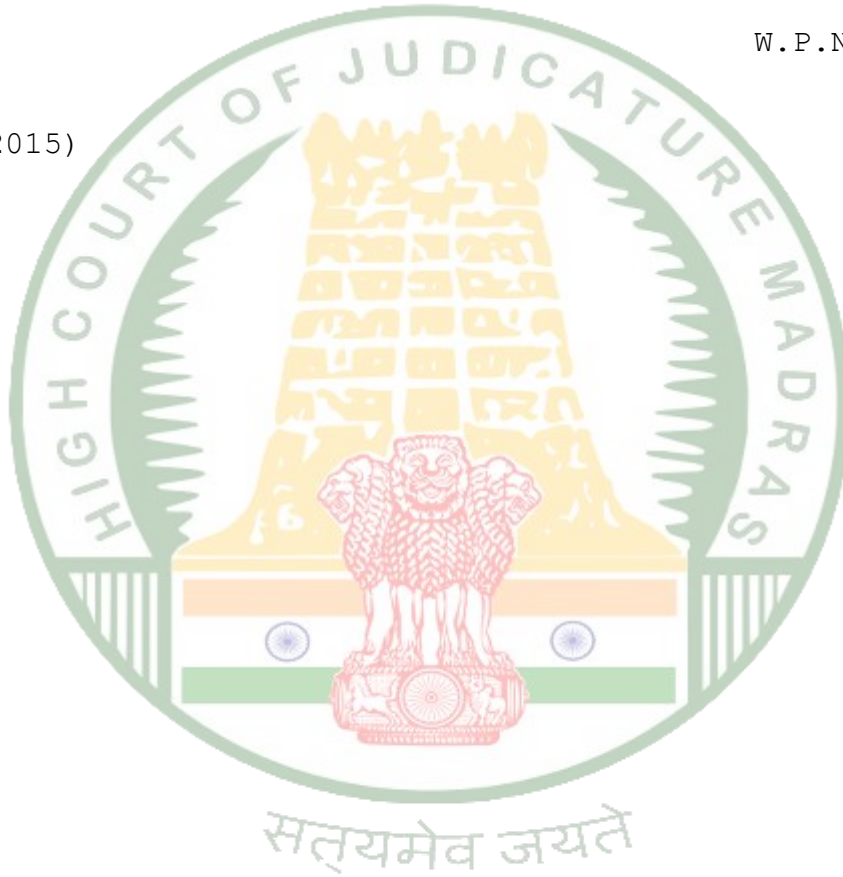
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W.P.No.33750 of 2014

RSK(CO)
CA(26/06/2015)



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