

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2015

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THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P.No.37075 of 2015
and
MP.Nos.1 to 3 of 2015

P.B.Rukumani Devi

... Petitioner

Vs.

1.State of Tamil Nadu
Rep by its Principal Secretary to Government
Higher Education Department
Fort St.George, Secretariat, Chennai-9.

2.The Periyar Univesity
Rep by its Registrar
University Campus
Periyar Palkalai Nagar,
Salem-636 011.

3.The Vice Chancellor
The Periyar University
University Campus
Periyar Palkalai Nagar,
Salem-636 011.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus to call for the records of the second respondent pertaining to the impugned notification dated 09.12.2014 as notified through the News Daily and quash the same as far as Serial No.20 Economics as illegal and against the livelihood the petitioner herein and subsequently directing the second respondent to regularise the service of the petitioner herein in the post of Lecturer/Assistant Professor Department of Economics in Periyar University College of Arts and Science Mettur among others by following the seniority from the date of appointment among the serving Assistant Professors/Lecturers in the said Periyar University College of Arts and Science, Mettur.

For Petitioner : M/s.S.S.Rajesh
For Respondents : M/s.M.E.Raniselvam, AGP for R1
M/s.P.Godson Swaminth for R2 & R3.

O R D E R

By consent, the writ petition itself is taken up for final disposal.

2.Learned counsel appearing for the petitioner and the learned Additional Government Pleader for the respondent submitted that the issues involved in this case is squarely covered by decision in the batch of writ petitions in WP.Nos.35127 to 35129 of 2015 etc., dated 14.10.2015.

3.The relevant paragraph numbers 10.1, 11.1 to 11.3, 12.1 and 16 in the batch of writ petitions in WP.Nos.35127 to 35129 of 2015 dated 14.10.2015 are extracted below :

I. Whether the petitioners were appointed against the sanctioned posts or not ?

10.1.The factual details are not disputed by the University. In GO.Ms.No.308, Higher Education (G1) Department dated 15.09.2006, six posts were sanctioned at the time of constitution of the college. That is, the petitioners in WP.Nos.35127 to 35129 of 2014, 885 of 2015 were appointed on 17.11.2006 and the petitioner in WP.No.2118 of 2015 was appointed on 20.11.2006 only in those sanctioned posts.

II. Whether the petitioners possessed the prescribed qualification for the post or not ?

11.1. The five petitioners (in WP.Nos.35127 to 35129 of 2014, 885 of 2015 and 2118 of 2015) were appointed on 17.11.2006 and 20.11.2006 by the University in various subjects to teach UG Courses. Admittedly, they possessed M.Phil., qualification and one among them (the petitioner in WP.NO.885/2015) possessed Ph.D., as well as pass in SLET, at the time of appointment.

11.2. The learned counsel for the University has not disputed that the M.Phil., was the required qualification, as per the UGC Regulations to teach UG Course, at the time of their

appointment. When the college was constituted in 2006, only UG.Courses, namely, B.C.S., B.Com., B.b.M., were offered. The same was also dealt with in Paragraph 3(iii) of this judgment. Six posts were sanctioned in GO.Ms.No.308, Higher Education Department, dated 15.09.2006, to teach those courses. The five petitioners were appointed among the six sanctioned posts. They possessed the requisite qualification, as per UGC Regulations.

11.3. The other 10 petitioners were appointed on 30.07.2009 and the other petitioner was appointed on 03.08.2009. But they were appointed pursuant to the paper publication issued by the University on 26.08.2008 calling for applications to fill up the post of Lecturer in various subjects, namely, (1)Tamil; (2)English; (3) Commerce; (4)Computer Science; (5)Mathematics; (6) Chemistry; (7)Geology; (8)Economics; (9)Statistics and (10)Physics. The same is extracted in paragraph 3(ix) of this judgment. The last date for the receipt of the applications is 12.09.2008.

III. Whether the petitioners were appointed by duly following the selection procedure :

12.1. According to the petitioners, they were selected by the Selection Committee duly constituted by the University as per the Act and the Statutes and Regulations framed thereunder. On the contrary, it is the submission of the learned counsel for the University that the Selection Committee was not constituted as per the UGC Regulations.

16.For all the aforesaid reasons, these writ petitions are allowed to the extent of quashing the impugned notification dated 09.12.2014 insofar the petitioners alone and a direction is issued to the respondents not to disturb the services of the petitioners and to regularise their service by granting the scale of pay, since they were appointed in the sanctioned posts, they possessed the requisite qualification prevailing at that time and they were selected by the duly constituted Selection Committee. I make it clear that the University can proceed with the impugned notification to make appointment in any other

vacancies and there is no bar for the university to fill up those posts based on UGC Regulations 2009, as contended by them.

4. Heard the submissions of Mr.S.S.Rajesh, learned Counsel appearing for the petitioner and M/s.M.E.Rani Selvam, Additional Government Pleader for R1 and Mr.P.Godson Swaminath, learned counsel appearing for R2 and R3 who accepts notice on behalf of the respondents.

5. In such view of the matter, this writ petition is allowed in similar terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government
State of Tamil Nadu
Higher Education Department
Fort St. George, Secretariat, Chennai-9.

2. The Registrar
Periyar University
University Campus
Periyar Palkalai Nagar,
Salem-636 011.

3. The Vice Chancellor
The Periyar University
University Campus
Periyar Palkalai Nagar,
Salem-636 011.

+1cc to Mr.S.S.Rajesh, Advocate, S.R.No.63548

+1cc to Mr.ISaac Mohanlal, Advocate, S.R.No.63272

W.P.No.37075 of 2015

VS (CO)

CA(16/12/2015)