

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.10.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.20373 of 2012 and
M.P.No.2 of 2012 and
M.P.No.1 of 2013

Dr.C.Senthilkumar

.. Petitioner

Vs.

- 1.The State of Tamil Nadu rep. by its
Secretary, Higher Education Department,
Secretariat, Chennai 09.
- 2.The Anna University,
Rep. by its Registrar,
Sardar Patel Road, Guindy, Chennai - 025.
- 3.Dr.K.Senthilkumar,
Associate Professor,
Department of Aerospace Engineering,
Anna University, Sardar Patel Road,
Chennai - 025.
- 4.Dr.S.Thanigaarasu
Associate Professor,
Department of Aerospace Engineering,
Anna University, Sardar Patel Road,
Chennai - 025.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order No.Procs.No.001/PR10/2012 dated 22.06.2012 issued by the 2nd respondent to the Respondent No.3 and 4 and quash the same as being illegal, arbitrary and unconstitutional and consequently direct the respondents 1 and 2 to consider and appoint the petitioner as Associate Professor, Aerodynamics Department in the respondent University with all attendant benefits, including seniority and monetary benefits, award costs.

For Petitioners: M/s.N.A.Thara

For Respondents : Mr.R.Govindasamy (for R1)
Special Government Pleader
Mr.M.Vijayakumar (for R2)
Mr.Karthick, Senior Counsel
for Mr.B.Vijay (for R3)
No Appearance (for R4)

O R D E R

This Writ Petition has been filed by the unsuccessful applicant, praying to quash the order passed by the 2nd respondent, vide order No. Procs.No.001/PR10/2012 dated 22.6.2012, selecting and appointing the 3rd and 4th respondents as Associate Professors and consequently for a direction on respondents 1 and 2 to consider and appoint the petitioner as Associate Professor in the Aerospace Engineering Department in the 2nd respondent University with all attendant benefits, including seniority and other monetary benefits.

2.The facts in brief, necessary for the disposal of the petition, are as under:-

The 2nd respondent University, during the month of January, 2011, issued advertisement to fill up the posts of Professors and Associate Professors in various faculties in the University. For the purpose of this case, this Court is concerned only with the appointment of Associate Professors pertaining to Aerospace Engineering Department.

3.The writ petitioner, who is said to have qualified himself in M.E. with a Doctorate in Aerodynamics, applied for the post of Professor and Associate Professor in the Aerospace Engineering Department. Similarly, the 3rd and 4th respondent also applied for the post of Associate Professor in Aerospace Engineering. It is the case of the petitioner that though the Screening Committee, which scrutinized the applications of the various persons, while rejected the candidature of the 3rd and 4th respondents, as the said respondents were not possessed of the requisite qualifications for the said post of Associate Professor more particularly, the 3rd respondent having not possessed with a Post Graduate Doctoral Degree in Aerospace Engineering, but was possessed of a Post Graduate Doctoral Degree in Avionics, however the third and fourth respondents were called to attend the interview on 19.6.2012.

4.It is the further case of the petitioner that the Syndicate was an adhoc syndicate committee, which did not have regular members and that the period of the Vice Chancellor was also coming to an end on 26.06.2012. In that backdrop, the interview was fixed on 20.6.2012, which was attended by the petitioner as well as respondents 3 and 4. The whole process of selection, done by an incompetent selection committee, was done in a hasty manner and the impugned order appointing respondents 3 and 4 was passed on 22.6.2012. Therefore, the said action is arbitrary, illegal and is liable to be interfered with so as to safeguard the rights of the petitioner.

5.It is the further case of the petitioner that the third respondent was possessed only of specialization in Avionics, which does not fall under the Aerospace Engineering discipline. Further, separate advertisement was issued for the post of Associate Professor in Avionics Department. While the third respondent and the petitioner had applied under the General category, the 4th respondent has applied under SC category. Further the fourth respondent was also not possessed of the minimum requisite experience stipulated under the advertisement. It is the further case of the petitioner that while First Class in the Under Graduate Degree has been stipulated in the advertisement, which is a mandatory requirement, the third respondent was not possessed of First Class in Under Graduate Degree and, therefore, his candidature should have been rejected, which was done so rightly by the Screening Committee, but was given a go-by for reasons best known.

6.The further case of the petitioner is that the Interview Committee though consisted of members from outside the University as also the Government, curiously, one of the member, a retired Professor of MIT, Madras, who was on the Interview Committee happened to be the Ph.D. Supervisor of the third respondent and, therefore, it is trite that there definitely would tend to be a bias in favour of the third respondent from the said member and, therefore, for the said reason as well, the whole selection process needs to be interfered with as it is against the principles of natural justice.

7.It is the further case of the petitioner that though he had given a representation to the first respondent highlighting all the above aspects, but no orders have been passed on the said representation and that the first respondent, till date, has remained a mute spectator without interfering with the above order and, therefore, in such a backdrop, left with no other alternative the petitioner has knocked on the doors of this Court for justice by filing the present petition.

8. Counter affidavits have been filed by the 2nd respondent the Anna University and the 3rd respondent who is the selected candidate also filed his counter, but the 4th respondent who is also selected candidate have not appeared and not filed counter. It is the stand of the second respondent that on the basis of the recommendation of the Selection Committee comprising of the Vice Chancellor and eight members of which one was the Chancellor's Nominee, the selection process was conducted. It is the further stand of the second respondent that in addition to the Vice Chancellor and the Chancellor's nominee, the other members include a representative of the Government, three outside experts of which two were from IIT, Madras and one retired Professor of Anna University and the remaining members being the Head of the Faculty and the Head of the concerned Department.

9. It is the stand of the second respondent that the contention of the petitioner that a First Class in Under Graduate course is a pre-requisite is per se incorrect, as the qualification prescribed for Associate Professor in Engineering Technology was B.E./B.Tech and M.E./M.Tech in relevant branch with first class or equivalent either in B.E./B.Tech and M.E./M.Tech. Respondents 3 and 4 having first class in either one of the degrees, there was no embargo in calling them for interview. It is the further stand of the second respondent that the field of specialization prescribed for the post was Aerodynamics/Aircraft Structures/Aerospace Propulsion. It is the contention of the second respondent that though the Screening Committee had initially rejected the candidature of the third respondent, he having specialised in Avionics in his doctoral program, however, on reconsideration of his candidature taking into consideration, the thesis submitted by the third respondent in his doctoral research, the case of the third respondent was considered. Further, it is the case of the second respondent that the Screening Committee included experts from the particular field, who having gone through the entire credentials of the third respondent, though his field of specialization was different, however the said field being interdisciplinary to Aerospace Engineering and the third respondent having done his doctoral research in the interdisciplinary field, his candidature was considered for General Turn category on reappreciation.

10. It is the further contention of the second respondent that the Syndicate, though is an adhoc committee, however, in terms of the powers vested with the Vice Chancellor under clause 22 (4) of the Anna University Chennai (Amendment) Act, 2010, the Adhoc Committee was formed for the purpose of discharging the duties and responsibilities of the Syndicate and Academic Council and, therefore, the contention of the petitioner that

the selection has been made by an Adhoc Committee and, therefore, not maintainable, is liable to be rejected.

11. It is the further stand of the second respondent that the Selection Committee comprised of eminent persons, who were experts in the field of academics in their particular discipline and they, after looking into the credentials of the concerned applicants and upon being satisfied with their presentation and their handling in the interview, had recommended the names of respondents 3 and 4. Therefore it is not open to the petitioner to contend that the qualification and experience of respondents 3 and 4 are below the standard prescribed.

12. The stand of the petitioner that the appointment was made in a hasty manner, according to the second respondent, is also not borne out by record as the original investment was given in January, 2011 and due to certain administrative reasons the selection was not made in the academic year 2011-2012. However, corrigendum was issued in November, 2011 and, thereafter, following the procedure contemplated, the applications received before the issue of the corrigendum and after issue of the corrigendum were scrutinised and persons who fulfilled the requisite qualifications were called for interview and finally after exhaustive distilling persons with academic excellence were appointed and, therefore, at no point of time the process was conducted in a hasty manner and, therefore, the stand of the petitioner on this aspect cannot be countenanced.

13. In fine, it is the stand of the second respondent that for the reasons and records adverted to above, the stand of the petitioner is wrongly perceived and, therefore, this petition deserves to be rejected.

14. The third respondent, in his counter affidavit, inter alia, while concurring with the stand of the second respondent, has further stated that he possess the required pre requisite qualification for being selected for the post of Associate Professor. It is the stand of the third respondent that while Aeronautical Engineering is the mother discipline, Avionics, Aerospace Engineering and Aeronautical Engineering are the sub-disciplines and, therefore, for all practical purposes, Avionics is part and parcel of Aeronautical specialization, Avionics being interdisciplinary to Aeronautical Engineering. It is further submitted by the third respondent that his academic experience relates to aerospace guidance and control, UAV System Design, Flight Control Laboratory and Missile Guidance and Control, which fields are interdisciplinary as the same involve aerodynamics, control, avionics and system integration. It is the further stand of the third respondent that though his Doctoral Program is in Avionics, however the thesis submitted by

him revolves around aerodynamics which would be evident from the thesis and further research publication, the research projects entrusted to him by various National and International Agencies would reveal that those projects involve complex aerodynamic and Aircraft control issues for various aircraft design and development applications. Considering all the above aspects, the Selection Committee consisting of experts had evaluated the qualification, experience and published works of the third respondent and had recommended his appointment. In such a scenario, there being no mala fides alleged against the experts of the Selection Committee, the Courts should be very circumspect in interfering with the views of the experts as in academic matters, the role of the Court is very limited.

15. It is the further stand of the third respondent that internal candidates do not have any special march over other candidates who have applied for the post and they are one among equals. That being the case, the stand of the petitioner that as an internal candidate, working in MIT, he should have been preferred over the other persons, as he has adequate work exposure and had trained large batches of students in the very same engineering field, does not have any legal footing. It is submitted by the third respondent that merit matters more than seniority in the case of direct recruitment. Therefore, it is submitted that, that being the case, when an Selection Committee of experts in the field have adjudged the third respondent as more meritorious and eligible for being appointed as Associate Professor, mere bald allegations made by the petitioner to hinder the process of selection for reasons best known to him, would not suffice for this Court, sitting under Article 226 of the Constitution to interfere with the decision arrived at by expert body in the particular field and, therefore, the petitioner's plea is liable to be rejected.

16. A reply affidavit has been filed by the petitioner, reiterating the stand taken by him in the main affidavit. While once again stressing that the person, an expert on the selection board was the Ph.D. course Supervisor of the third respondent in his doctoral program, acting as a Selection Committee member is very much against the ethics and, therefore, is totally violating the Acts and Statutes of the Anna University as well as the judicial precedents of this Court as well as the Hon'ble Supreme Court.

17. It is further stated by the petitioner in his reply that the third respondent has completed his M.E. only in the year 2003 and, therefore, he does not satisfy the eligibility of eight years of experience contemplated in the advertisement. Therefore, considering his candidature, when he does not fulfill the mandatory condition of eligibility hits at the root of his

selection. Similar is the case of the fourth respondent who has been selected under the Scheduled Caste category. The third and fourth respondents not having the requisite eligibility criteria relating to experience, their selection smacks of mala fides and the whole process is liable to be set aside with a further direction to the second respondent to appoint the petitioner, who fulfills all the eligibility criteria.

18.Learned counsel appearing for the petitioner submitted that the appointments have been made in utter violation and disregard to the rules and not following the procedures and not taking into consideration the relevant pre-requisite qualification. Learned counsel submitted that the Vice-Chancellor, for the reasons best known, had constituted the Adhoc Committee for filling up the posts, that too when his term is to end by that month end in which the selection and appointments were made. This itself creates a very big doubt on the whole selection process and, therefore, it is submitted, that it is the duty of the Court to dissect the whole selection process and see whether the selection and appointments have been made in a manner known to law.

19.It is further contended by the learned counsel for the petitioner that the person, who was associated with the third respondent as his Supervisor in the Ph.D project, has been made as a member of the Committee and it is wholly unethical for such a person to sit in the selection committee as there is always a possibility of bias creeping into the selection. Therefore, the selection is a questionable selection more particularly to benefit the third respondent.

20.It is further contended by the learned counsel for the petitioner that the advertisement carries selection for the post of Associate Professor in Aerospace Engineering and Assistant Professor in Avionics. If really the third respondent is so very qualified, as put forth by him, and as said to be ascertained by the selection committee in the interview, the specialization of the third respondent being Avionics, he could very well have been fitted in the Avionics stream, but for reasons best known to the selection committee, they had thought it fit to appoint him in the post of Associate Professor in the Aerospace Engineering, though the Screening Committee had initially rejected his application. Further, the third respondent also, though had qualified himself in Avionics, had applied for the post of Associate Professor in Aerospace Engineering, which creates a doubt that all is not well with the selection process and more so, seems to be a cooked up selection.

21. It is further contended by the learned counsel for the petitioner that the third and fourth respondents do not satisfy the experience as contemplated in the advertisement, in that they either do not satisfy the first class qualification in UG course or they do not have the requisite number of experience and, therefore, their candidature is liable to be rejected at the threshold. However, with mala fide intent, the third and fourth respondents have been called for interview at the behest of the selection committee and were selected overlooking the much better credentials of the petitioner. The learned counsel for the petitioner has contended that recruitment of teaching faculties in universities should be made strictly in accordance with eligibility conditions and qualifications prescribed under the recruitment notification and placed reliance upon the judgment of the Hon'ble Supreme Court in Mohd. Sohrab Khan v. Aligarh Muslim University and others reported in (2009) 4 SCC 555, it is held as follows:-

"A. Education and Universities - Service matters - Recruitment process - Eligibility conditions - Educational qualifications as prescribed in advertisement - Deviation from - Impermissibility - Held, recruitment must be conducted according to prescribed educational qualifications - Generally, decision of Selection Committee, which is an expert body, should be respected but Selection Committee cannot change selection criteria midway - Some candidates might not have applied by considering themselves ineligible according to advertised qualifications - Thus respondent University, after advertising the educational qualification as Master's degree in Chemistry (or Pure Chemistry) for the post of Lecturer in University Polytechnic, could not appoint a person with qualification in Industrial Chemistry - University given opportunity to lay down exact qualifications and undertake fresh recruitment process by advertising the post again - Appointment - Invalidation of - Selection Committee - Recommendation of - Judicial review - Aligarh Muslim University Act, 1920 (40 of 1920) - S. 28 - Statutes 22, 21, 19 and 17(2)(i).

The issue involved in this case was whether the post of Lecturer in Chemistry (or Pure Chemistry) in the respondent University could be filled by recruiting a candidate who had Master's degree in Industrial Chemistry.

The University can always have a person as a Lecturer in a particular discipline that it desires to have, but the same must be specifically stated in the advertisement itself. In the matter of selection of candidates, opinion of the Selection Committee should be final, but at the same time, the Selection Committee cannot act arbitrarily and cannot change the criteria/qualification in the selection process midstream. There

could have been intending candidates who would have applied for becoming candidate as against the said advertised post, had they known and were informed through advertisement that Industrial Chemistry is also one of the qualifications for filling up the said post. The Selection Committee during the stage of selection, which is midway could not have changed the essential qualification laid down in the advertisement."

22.Per contra, learned counsel appearing for the second respondent University and third respondent, stressed that there was no mala fide intent in the selection of the third and fourth respondents. It is the further submission of the learned counsel that though the screening committee had initially not selected the candidature of the third respondent, however, the selection committee, having experts in the particular field and comprising eminent academicians from IIT, Madras, the Head of Department of Anna University and a retired Professor of Anna University, looking into the credentials of the third respondent, have found him fit for being called for interview. In such a situation, as has been repeatedly held, the High Court should not sit in appeal over the decision of the academic experts, who are more conversant in their field of knowledge and it is not for the Court to substituted its views to that of the experts.

23.It is the further submission of the learned counsel for the second and third respondent that though the petitioner has harped on the technical issue relating to the qualification of the third respondent and his subsequent appointment, which has been done by a committee of experts, however, curiously, has not attributed any mala fides to the members of the Committee, be it the outside three expert members or the nominee of the Government or the Chancellor or to the Head of the Department. Only the Vice Chancellor has been attributed with the forming of an Adhoc Committee in the absence of the Syndicate, for which power is vested with the Vice Chancellor. For exercising the powers vested under the relevant laws, no mala fide can be attributed and if at all any mala fide is attributed, it is for the petitioner to prove the mala fide and a general bald allegation of mala fide is not suffice to set aside the selection, merely on allegations, which remain unsubstantiated.

24.I heard M/s.NA.Thara, learned counsel appearing for the petitioner, Mr.R.Govindasamy, learned Special Government Pleader appearing for the 1st respondent and Mr.M.Vijayakumar, learned counsel appearing for the 2nd respondent University, Mr.Karthick, learned Senior Counsel assisted by Mr.B.Vijay, learned counsel appearing for the 3rd respondent and there is no representation on behalf of the 4th respondent and also perused the materials available on record to which this Court's attention was drawn,

including the relevant provisions of the AICTE Act and the advertisement published for the various posts.

25. Before proceeding to analyse the various merits and demerits of the issue, it is borne out by record that the grievance of the petitioner could only be against the appointment of the third respondent against the General Turn category, as the petitioner belongs to General Turn category and he cannot have any grievance against the appointed made to the Scheduled Caste category, in which the fourth respondent has been appointed. Though the fourth respondent has been made a party, he having been appointed against the reserved category against which the petitioner can have no grievance as he falls under general category, this Court is not dwelling into the appointment of the fourth respondent, but limits its discussions and reasons to the appointment of the third respondent vis-a-vis the petitioner.

26. Before proceeding to analyze whether the appointments of respondents 3 and 4 has been done in a manner known to law and whether they satisfy the requisite eligibility criteria, the formation of an Adhoc Committee for making the selection is put in issue. While it is the stand of the petitioner that in the absence of a regular Syndicate, the formation of the Adhoc Committee by the Vice Chancellor is illegal and, therefore, the entire selection process has to be struck down and the second respondent should be directed to appoint the petitioner, who has fulfilled the eligibility criteria, it is contended by the second respondent that the Vice Chancellor is clothed with the power under the Anna University Chennai Amendment Act, 2010 to form Adhoc Committees for the purpose of performing the duties and responsibilities and, therefore, no interference is warranted with the constitution/formation of the Adhoc Committee.

27. Vide Act 24 of 2010, the Anna University Chennai Act was amended. In Schedule II to the amended Act, clause 22(1) pertains to clearing of doubts. For better clarity the said clause is extracted hereunder:-

"22. (1) For removal of doubts, it is hereby declared that-

the Vice-Chancellor of the Anna University, Chennai appointed under the Anna University, Chennai Act, 1978 (hereinafter in this section referred to as the 1978 Act) and holding office as such immediately before the commencement of this Act shall continue to be the Vice-Chancellor of the Anna University till his term of office expires;

members of the authorities of the Anna University, Chennai elected or nominated or otherwise as such members under the 1978 Act and holding office as such members in any of the authorities of the Anna University, Chennai immediately before the

commencement of this Act shall cease to be such members.

The Vice-Chancellor shall make arrangements for constituting the Syndicate and Academic Council of the University within three months from the date of commencement of this Act or such longer period not exceeding one year after the expiry of the said period of three months, as the Government may, by notification, specify.

The Syndicate and Academic Council constituted under sub-section (2) shall commence to exercise their functions on such date as the Government may, by notification, specify in this behalf.

Until such time the Syndicate and Academic Council are duly constituted under sub-section (2), the Vice-Chancellor may constitute any committee comprising of officers, temporarily to exercise and perform any of the powers and duties of such authorities under the 1978 Act and the statutes."

(Emphasis Supplied)

28. From the above, especially the last leg of clause 22 (1), it is clear that power is vested with the Vice-Chancellor to constitute any committee comprising of officers, temporarily to exercise and perform any of the powers and duties of such authorities under the 1978 Act and the statutes. It is under the said provision, that the Vice-Chancellor, in the absence of a duly constituted Committee/Syndicate, had thought it fit to constitute an Adhoc Committee for the purpose of appointment of the faculties for various disciplines. Therefore, it cannot be said that the constitution is bad in law as power has been vested with the Vice-Chancellor to constitute such committees. In the absence of violation of the Act or the statutes or clauses, mere pleading that such adhoc committee has been constituted at the fag end of the tenure of the Vice-Chancellor only for the benefit of vested interest is too bald an allegation to inspire the confidence of this Court to magnify the act of the Vice-Chancellor out of proportion and to attribute a mala fide intent to such an act so as to set aside the whole process of selection. It is not only this post which has been advertised, but very many posts have been advertised and very many selection committees would have been constituted to select suitable persons for appointment. Therefore, just because adhoc committee has been constituted and not the regular Syndicate or the Academic Council could not be termed as a colourable exercise of power by the Vice Chancellor and, therefore, contention in this regard does not merit acceptance at the hands of this Court.

29. Further, the prayer of the petitioner in this petition is very curious. While he attacks the formation of the adhoc Committee by the Vice-Chancellor terming it as colourable exercise of power and done with vested interest and, therefore, the selection and appointment of the third and fourth

respondents have to be set aside, in the same breath, further prays this Court to direct the respondents 1 and 2 to appoint the petitioner to the post of Associate Professor with all consequential monetary and service benefits. The prayer of the petitioner clearly shows that he wants to have the cake and eat it too. If the formation of the Adhoc Committee itself, according to the petitioner, is bad, how the petitioner, as a part of the very same selection process, claim appointment. What is sauce for the goose is sauce for the gander. If the selection of third respondent is bad for want of a properly formed committee, the very same analogy has to be applied to the petitioner as well and he cannot walk with the pie to the disadvantage of the third respondent. It is only the petitioner's prayer that is colourable and not the act of the formation of the adhoc committee, which has been done in accordance with the powers provided under the Anna University Chennai Amendment Act.

30. It is the grievance of the petitioner that one of the expert members of the Committee, viz., a retired Professor was formerly a professor of Anna University under whose stewardship and supervision the third respondent had undergone his doctoral program and, therefore, his inclusion in the Committee naturally creates a bias in favour of the third respondent and, therefore, the whole selection process is vitiated. In short, to a limited extent bias is attributed to one lone expert on the selection committee panel and whether his evaluation has the upper hand in the overall assessment of quality of all the persons, who were interviewed so as to enable this Court to

come to a conclusion that the whole process is vitiated due to the inclusion of the said expert member or that undue favour has been granted by the expert member in favour of the third respondent to the detriment of others, which has resulted in the petitioner not able to succeed in the said selection process.

31. Under the Right to Information Act, the petitioner has sought for particulars relating to the selection process and the Public Information Officer has provided the petitioner with the information sought for which is found in the typed set of documents submitted by the petitioner. In the last sheet of the said information submitted by the petitioner, the marks awarded by the Committee for the post of Associate Professor, Department of Aerospace Engineering is found tabulated against three individuals, viz., the third respondent, the petitioner and the fourth respondent. A careful perusal of the marks awarded by the various members of the Selection Committee reveals that overall, all the members of the Selection Committee have awarded higher marks to the third respondent, which is more than the marks awarded to the petitioner. Excepting the Third Expert Member,

who has awarded 9 marks (against whom bias is attributed), all the other members have awarded 8 marks each to the third respondent. Whereas in the case of the petitioner while one of the expert member has awarded 8 marks, the other expert member has awarded 7 marks and the third expert member (against whom bias is attributed) has awarded 6 marks, the other members on the selection committee have awarded 6 marks each. In all, while the total of the third respondent is 57 marks, the petitioner has obtained only 45 marks. Even if the marks awarded by the third member is not taken into consideration for both the petitioner and the third respondent, the third respondent still had got more marks than the petitioner. Likewise, even if equivalent marks is awarded to the petitioner as awarded to the third respondent by the third expert member, still the petitioner could not have reached the total marks secured by the third respondent. Therefore, the bias attributed to the lone member, could in no way stand in adjudging the merit of the third respondent. The bias attributed to the third expert member by the petitioner is nothing but the petitioner trying to clutch the last straw in his bid to get himself selected for the post of Associate Professor. For the reasons adduced above, the contention of the petitioner that the third expert member on the selection panel being known to the third respondent had diminished his chances of getting selected for the post is nothing but a fragile attempt to arouse the sympathy of this Court, which this Court finds totally unwarranted to interfere.

32. It is the contention of the petitioner that the third respondent is not having the prescribed qualification and experience as is mandated for the post of Associate Professor and, therefore, the Screening Committee did not find the third respondent suitable for want of necessary qualification but curiously the third respondent had been called for interview and curiously the Selection Committee had selected the third respondent for appointment and this clearly shows that the whole selection process is vitiated.

33. What is the scope and power of the Courts on the question of assessing the qualification and experience with relation to the recommendation of an Expert Committee consisting of distinguished experts in the particular field.

34. It has been time and again reiterated that the Court should not sit over in appeal against the recommendation of an Expert Committee consisting of distinguished experts in the particular field when it pertains to the field of academics, as the experts would have an upper hand and knowledge of the subject and only when arbitrariness, illegality or violation of rights is shown to have taken place, the Courts would be justified in interfering in the said issue and not otherwise.

35.The learned counsel appearing for the respondents produced the Judgment of the Hon'ble Supreme Court in a case of Basavaiah (Dr.) v. Dr. H.L. Ramesh, reported in (2010) 8 SCC 372 : (2010) 2 SCC (L&S) 640, held as under:-

20.It is abundantly clear from the affidavit filed by the University that the Expert Committee had carefully examined and scrutinised the qualification, experience and published work of the appellants before selecting them for the posts of Readers in Sericulture. In our considered opinion, the Division Bench was not justified in sitting in appeal over the unanimous recommendations of the Expert Committee consisting of five experts. The Expert Committee had in fact scrutinised the merits and demerits of each candidate including qualification and the equivalent published work and its recommendations were sent to the University for Appointment which were accepted by the University.

21. It is the settled legal position that the courts have to show deference and consideration to the recommendation of an Expert Committee consisting of distinguished experts in the field. In the instant case, the experts had evaluated the qualification, experience and published work of the appellants and thereafter recommendations for their appointments were made. The Division Bench of the High Court ought not to have sat as an appellate court on the recommendations made by the country's leading experts in the field of Sericulture.

We have dealt with the aforesaid judgments to reiterate and reaffirm the legal position that in the academic matters, the courts have a very limited role particularly when no mala fides have been alleged against the experts constituting the Selection Committee. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts. As a matter of principle, the courts should never make an endeavour to sit in appeal over the decisions of the experts. The courts must realise and appreciate its constraints and limitations in academic matters.

36.In M.C. Gupta (Dr.) case, (1979 (2) SCC 339), the Supreme Court held that it would be prudent and safe for the courts to leave the decision in academic matters to the experts, who are more familiar in the particular field as the problems faced in the particular field would be much more known to them than the Court. In this regard, the Apex Court held as under:-

"7. ... When selection is made by the Commission aided and advised by experts having technical experience and high academic qualifications in the specialist field, probing teaching/research experience in technical subjects, the courts

should be slow to interfere with the opinion expressed by experts unless there are allegations of mala fides against them. It would normally be prudent and safe for the courts to leave the decision of academic matters to experts who are more familiar with the problems they face than the courts generally can be."

37. In J.P. Kulshrestha (Dr.) v. Allahabad University (1980 (3) SCC 418) the Court observed that the court should not substitute its judgment for that of academicians. In the said context the Supreme Court held as under :-

"17. Rulings of this Court were cited before us to hammer home the point that the court should not substitute its judgment for that of academicians when the dispute relates to educational affairs. While there is no absolute ban, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies."

38. In Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth (1984 (4) SCC 27), the Court observed thus:-

"29. ... As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them."

39. In Dalpat Abasaheb Solunke v. Dr. B.S. Mahajan 1990(1) SCC 305 the Court in somewhat similar matter observed thus :-

"12. ... It is needless to emphasise that it is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinise the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The court has no such expertise. The decision of the Selection Committee can be interfered with 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 mala fides affecting the selection, etc. It is not disputed that in the present case the University had constituted the Committee in due compliance with the relevant statutes. The Committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made and in setting it aside on the ground of the so-called comparative merits of the candidates as assessed by the court, the High Court went wrong and exceeded its jurisdiction."

40. In *Chancellor v. Dr. Bijayananda Kar* (1994 (1) SCC 169), the Court observed thus :-

"9. This Court has repeatedly held that the decisions of the academic authorities should not ordinarily be interfered with by the courts. Whether a candidate fulfils the requisite qualifications or not is a matter which should be entirely left to be decided by the academic bodies and the Selection Committees concerned which invariably consist of experts on the subjects relevant to the selection."

41. In *Madras Institute of Development Studies v. K. Sivasubramaniyan*, ((2016) 1 SCC 454 : (2016) 1 SCC (L&S) 161), held as follows:-

"..... Further, it appears that the Committee constituted for the purpose of selection consists of eminent Scientists, Professor of Economic Studies and Planning and other members. The integrity of these members of the Committee has not been doubted by the respondent writ petitioner. It is well settled that the decision of the academic authorities about the suitability of a candidate to be appointed as Associate Professor in a research institute cannot normally be examined by the High Court under its writ jurisdiction. Having regard to the fact that the candidates so selected possessed all requisite qualifications and experience and, therefore, their appointment cannot be questioned on the ground of lack of qualification and experience. The High Court ought not to have interfered with the decision of the Institute in appointing Respondents 2 to 4 on the post of Associate Professor.

13. Be that as it may, the respondent, without raising any objection to the alleged variations in the contents of the advertisement and the Rules, submitted his application and participated in the selection process by appearing before the Committee of Experts. It was only after he was not selected for appointment that he turned around and challenged the very selection process."

42. From the above cited precedents of the Supreme Court, it is categorically evident that the Courts should normally refrain from substituting its views to that of the experts, who are experts in their fields, unless and until interest of justice so warrants.

43. Keeping in mind the above proposition of law laid down by the Apex Court, this Court endeavours to analyse the contentions put forth by the petitioner for setting aside the appointment. The petitioner pleads that the third respondent does not possess a degree in Aerospace Engineering, rather has only a degree and doctorate in Avionics and, therefore, the Screening Committee had not considered his candidature, which fact has been brushed aside by the Selection Committee and that the third respondent

was called for interview and selected. Further the third respondent also does not have the necessary experience of eight years as mandated along with a first class in undergraduate degree and, therefore, his candidature should have been rejected.

44.The All India Council for Technical Education, vide its Notification dated 28th April, 2017, had detailed the Major Branches of Engineering/Technology and their relevant/appropriate branch of UG/PG degree in Engineering/Technology. A cursory glance of the said notification, more especially the one detailing the branch of Aeronautical Engineering, is extracted hereinbelow, for better appreciation:-

Major Disciplines of Engineering/Technology	Corresponding Course(s) of Engineering Technology	Relevant/ Appropriate nomenclature of UG degree in Engineering/Technology	Relevant/ Appropriate nomenclature of PG degree in Engineering/Technology
Aeronautical Engineering	Aeronautical Engineering	i)Aerospace Engineering ii)Aeronautical Engineering iii)Aircraft Maintenance Engineering	i)Aero Dynamic Engineering ii)Aerospace Engineering iii)Aeronautical Engineering iv) Avionics

45.From the nomenclature and the divisions given by the All India Council for Technical Education relating to the various disciplines of Engineering that would fall under Aeronautical Engineering, Aerospace Engineering and Avionics are sub-disciplines under the major discipline of Aeronautical Engineering in the Post Graduate Degree. Therefore, for all practical purposes, Aerospace Engineering and Avionics are sub-disciplines of Aeronautical Engineering in addition to other disciplines as detailed above.

46.In the above backdrop, a cursory perusal of the advertisement issued by the second respondent reveals that posts were advertised for both Aerospace and Avionics, the sister discipline of Aeronautical Engineering. While Avionics is like electronics involving navigation system of satellites, signal

processing, etc., on the other hand, Aerospace deals with the mechanical aspect of things like the designing of Aircraft and rockets on the basis of air pressure, thrust etc. In short, the two different fields merge with one another in the orbit of Aeronautical Engineering.

47. Based on the general concept as detailed above, the screening committee, at the initial stage, had not considered the case of the third respondent for the post of Associate Professor in Aerospace Engineering. However, it is submitted that the candidature of the third respondent was once again re-appreciated by the Screening Committee and he was thereafter called for interview which is evident from the counter filed by the second respondent. Thereafter, during interview the Selection Committee, comprising of members, more particularly, the Head of Department of Aerospace Engineering of Anna University and Professors from Indian Institute of Technology, Madras and one retired Professor of Anna University, who are experts in the field of aeronautical engineering, after going through the credentials of the third respondent, more particularly his doctorate program, wherein he had done thesis in Design and Development of Terminal Phase Flight Control System for Unmanned Air Vehicle and further looking into his academic research in various fields and based on the presentation given by him and his performance in the interview had selected him for appointment as Associate Professor and by this selection the reconsidered decision of the Screening Committee to call the third respondent for interview stands vindicated by the fact that he topped the merit list by scoring the maximum marks amongst the three candidates who applied for the said post and in the general turn category, he stood first pushing the petitioner down the list. Thus, the judgment of Supreme Court relied upon by learned counsel for the petitioner in Mohad.Sohrab Khan v. Aligarh Muslim University and others, 2009 (4) SCC 555, is not applicable to the facts of the case.

48. When the experts, in the field, who were part of the Selection Committee, after appraisal of the credentials and performance of the third respondent in the presentation and interview had rated him on top amongst all the candidates, which fact has been brought out by the petitioner himself by filing the minutes of the Selection Committee and the award of marks by the members of the Committee to the candidates, and except for the bias attributed by the petitioner to one of the expert, which has been rejected in the earlier portion of this order, no other material having been placed before this Court to attribute mala fide, this Court, under writ jurisdiction would not be justified in substituting its opinion to that of the experts in the field, which has been deprecated by the Supreme Court more often than not.

49. As has been held by the Apex Court in Dalpat Abasaheb Solunke's case (supra), whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The court has no such expertise. The decision of the Selection Committee can be interfered with 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 mala fides affecting the selection, etc. In the case on hand, the committee consisting of experts have evaluated the comparative performance of the persons, who attended the interview and based on the overall merit have arrived at a definitive finding that the third respondent is more meritorious than the petitioner under the general turn category and have selected him for appointment for the post of Associate Professor. Such being the case, this Court, under writ jurisdiction would not be justified in sitting over the views of the experts more so when no illegality or patent material irregularity has been shown or that the selection procedure is vitiated. Therefore, the selection of the third respondent by the Selection Committee, in the facts and circumstances of the case, cannot be interfered with.

50. Similarly, the plea of the petitioner that the third respondent is not possessed of the minimum prescribed experience of eight years also cannot be entertained as according to the third respondent he has been employed since the year 1999. However, the petitioner contends that the third respondent has passed his post graduation only in the year 2003 and, therefore, would not be having the requisite experience of eight years as on 30.6.2011. However it is trite to point out that the document filed by the petitioner in the typed set shows that the information given to the petitioner pursuant to his application under RTI itself shows that the third respondent was assessed with teaching experience of 10 years and 21 days as on date of notification. Secondly, this Court finds that the notification did not enumerate as to how the experience should be calculated, whether pre-PG degree or post-PG degree. In such a scenario it is best to leave it to the authorities concerned to decide on the date from which the experience should be assessed since it is within the realm of the authorities to decide on the issue regarding computation. However, this Court would like to point out that the calculative aspect is ambiguous in the advertisement as well and it would have been much better had the advertisement been properly worded. However, that alone cannot make the whole selection process vitiated. Since employment status of the third respondent as given by him puts it in the year 1999 though the petitioner contends that his teaching experience starts from 2003, since the said issue being a disputed question of fact, the passing of the third respondent

being a factual aspect, this Court under Article 226 of the Constitution of India would not be justified in deciding disputed questions of fact and, therefore, the plea as regards the experience of the third respondent cannot be gone into by this Court. Further, the Screening Committee as well as the Selection Committee having satisfied themselves that the third respondent has the necessary experience as stipulated in the advertisement and have selected the third respondent, which has been approved by the Syndicate, it would not be prudent to conduct a roving enquiry, more especially when persons of eminence after due deliberations and in their wisdom have chosen to select the third respondent after having satisfied themselves as to his merit and ability as also experience. Therefore, the contention of the petitioner that the third respondent does not have the necessary experience is liable to be rejected.

51. One more aspect which goes to the weight of the selection is the approval given by the Syndicate as is reflected in the Minutes of the 215th Meeting of the Syndicate, wherein the Syndicate has passed the following resolution:-

"RESOLVED TO NOTE the Vice Chancellor's brief report on the recent recruitment drive held between 11th and 21st June, 2012. In the first spell, arrangements have been made to fill up 80 posts (Professor - 28, Associate Professor - 38 and Assistant Professor - 14) in various Departments.

1.9 Selection Committees interviewed the candidates to fill up the above posts.

As is customary, the rigorous process of candidate evaluation was undertaken adhering strictly to the guidelines stipulated. The candidates were evaluated based on their presentation, knowledge in subject and oral teaching skills.

Based on this evaluation, the Selection Committee could recommend only 46 candidates (15 Professors, 23 Associate Professor and 8 Assistant Professors) for appointment as faculty in various Departments of Anna University."

RESOLVED TO APPROVE the minutes of the Selection Committees for appointment of Professors, Associate Professors and Assistant Professors in various departments of this University as given in Annexures 1 to 38 (Page Nos. 21 to 100) except in respect of selection of Dr. H. Jane Helena to the post of Associate Professor in the Department of Civil Engineering since she has possessed required years of 08 years service, including the service rendered by her as Teaching Research Associates in this University whereas certain candidates with similar TRA service who applied for the post of Associate Professor in the above Department were, inadvertently not called for interview."

52.From the above minutes of the Syndicate, it is manifestly clear that the Syndicate had applied its mind to the views of the various Selection Committees and has approved the selection, subject to certain modification as reflected above. In such a scenario, when the mind has been applied in proper perspective by the Selection Committee as well as the Syndicate and a decision has been taken to appoint the third respondent, this Court, sitting under Article 226 of the Constitution would not be justified in substituting its views on the materials available on record, there being no mala fide or illegality or arbitrariness shown to have been perpetrated thereby vitiating the process of selection.

53.Further one other point, which this Court would like to venture upon is that the petitioner by submitting his application participated in the selection process by appearing before the Committee of Experts. It was only after he was not selected for appointment that he turned around and challenged the very selection process, including the appointment of the third respondent. Prior to that, knowing fully well that there was no Syndicate and Academic Council and that only an Adhoc Committee has been formed, the petitioner has gone through all the formalities in the selection process. That being the case, after the selection process is over and the third respondent having been selected on merit over and above the petitioner, it is not open to the petitioner to challenge the said selection, as he had with open eyes participated in the selection process and he is, therefore, estopped to challenge the same.

54.In the above circumstances, it is made clear that the petitioner has not make out any case before this Court and hence this Court not warranting interference in the impugned order in No.Procs.No.001/PR10/2012 dated 22.06.2012, passed by the 2nd respondent in respect of the appointment of the respondents 3 and 4 and hence, this writ petition is liable to be dismissed.

55.In the result, this Court finds no merit in the writ petition and, accordingly, the same is dismissed. Consequently, connected miscellaneous petitions are also dismissed. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vs

To

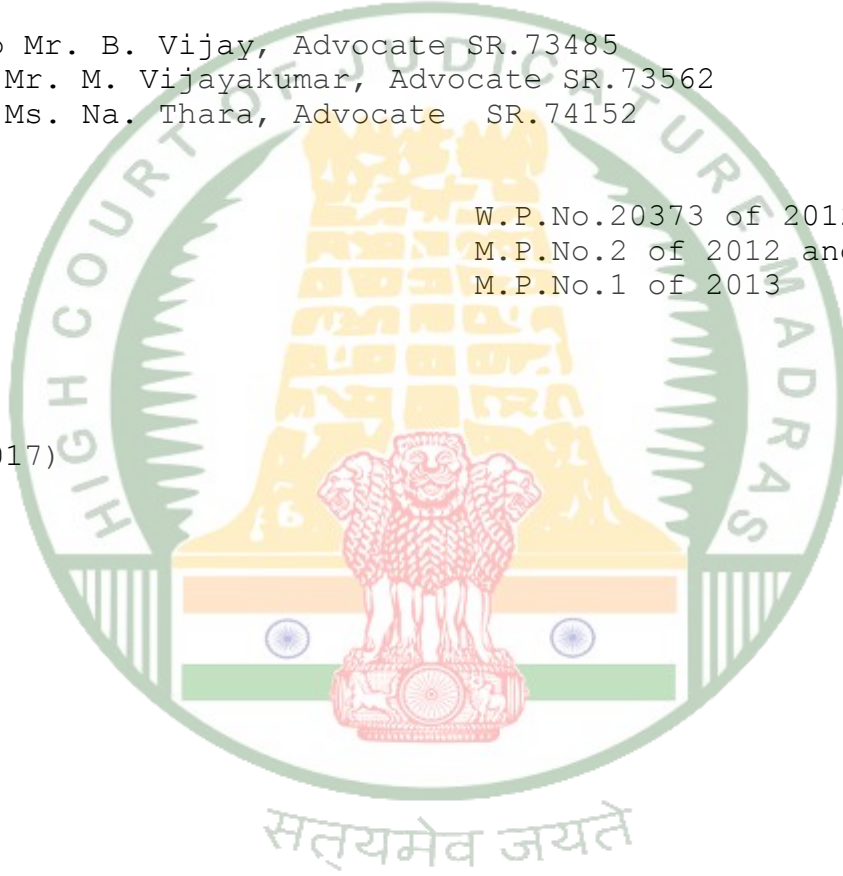
1.The Secretary,
Higher Education Department,
Secretariat, Chennai 09.

2.The Registrar,
Anna University,
Sardar Patel Road, Guindy,
Chennai - 025.

+ 2 ccs to Mr. B. Vijay, Advocate SR.73485
+ 1 cc to Mr. M. Vijayakumar, Advocate SR.73562
+ 1 cc to Ms. Na. Thara, Advocate SR.74152

W.P.No.20373 of 2012 and
M.P.No.2 of 2012 and
M.P.No.1 of 2013

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