

IN THE HIGH Court OF JUDICATURE AT MADRAS

Dated: 23.10.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.Nos.8601, 11273 and 11274 of 2013 and
W.P.No.30240 of 2015 and
M.P.Nos.1,2,1,2,1,2 of 2013 and
MP.No.1 of 2015 & WMP.No.8046 of 2016

WP.No.8601 of 2013

Dr.S.Baskaran

Technical Officer, Madras University Library,
Tholkappiar Valagam, University of Madras,
Chennai - 600 005. ... Petitioner

Vs.

1.The University of Madras,
represented by its Registrar,
Chennai 600 005.

2.P.Dhanasekaran
Technical Officer,
Guindy Campus,
University of Madras,
Chennai - 600 025.

3.V.Kalaiappan
Technical Officer, Guindy Campus,
University of Madras,
Chennai - 600 025.

.. Respondents

Prayer in WP.No.8601 of 2013: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the first respondent to promote the petitioner as Assistant Librarian in the University of Madras pursuant to the petitioner's representation dated 25.03.2013 to the first respondent.

WP.Nos.11273 and 11274 of 2013

M.Veerapandi

.. Petitioner in WP.No.11273/2013

M.Selvi

.. Petitioner in WP.No.11274/2013

Vs.

1.The University of Madras,
Rep. by its Registrar,
Centenary Buildings, Chepauk,
Chennai - 5.

2.The Principal Secretary,
Higher Education Department,
Government of Tamil Nadu,
Fort St. George, Chennai-9.

3.The University Grants Commission,
Rep. by its Secretary,
Bahadur Shah Zafar Marg,
New Delhi - 110 002. ... Respondents in WP.Nos.11273 &
11274 of 2013

Prayer in WP.Nos.11273 and 11274 of 2013: Writ Petitions filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for records relating to the order of the first respondent made in Official Communication No.D1(B)/TE/2013-504 dated 11.03.2013, quash the same and to consequently direct the respondents to consider and appoint the petitioners as Assistant Librarian forthwith with all benefits both service and monetary.

WP.No.30240 of 2015
Dr.S.Baskaran
Technical Officer, Madras University Library,
University of Madras,
Chennai - 600 005. ... Petitioner
Vs.

University of Madras,
Rep. by its Registrar,
Chennai - 600 005. ... Respondent

Prayer in WP.No.30240 of 2015: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondent to appoint the petitioner in the post of Assistant Librarian in the University of Madras pursuant to the petitioner's representation dated 14.09.2015 before acting on the notification issued by it calling for applications for the post of Assistant Librarian.

For Petitioners : Mr.C.Selvaraj, Senior counsel
for M/s.M.Muthukrishnan
(in WP.Nos.8601/13 & 30240/15)

Mr.L.Chandrakumar
(in WP.Nos.11273 & 11274/13)

For Respondents : Mrs.G.Thilakavathi,
Senior counsel
for M/s.P.Aishwariya
(R1 in all the WPs)

Mr.A.Raja Perumal (for R2 in
WP.Nos.11273 & 11274/13)
Additional Government Pleader

Mr.P.K.Gopinathan (for R3)
(in WP.Nos.11273 & 11274/2013)

COMMON ORDER

In all these writ petitions the core issue involved is one and the same, pertaining to the claim of the respective petitioners to promote them to the post of Assistant Librarian in the university of Madras.

2.The case of the petitioner in WP.No.8601 of 2013 namely Dr.Baskaran is that he Joined service under the 1st respondent as Assistant Technical Officer in the month of March 1998 with qualification of M.A., and M.Lis. In the month of December 2004 the petitioner obtained M.Phil decree. In the month of March 2012 the petitioner having completed his research work obtained his Ph.D., Degree.

3.In the meantime, on 11.02.2008 the syndicate of the 1st respondent University passed a Resolution to promote four Technical Officers as Assistant Librarian. However, the petitioner's name was not found in the promotion list, though he was eligible. When the petitioner sought particulars under the RTI Act for the non inclusion of his name, it was informed by the 1st respondent that no Technical Officer (Library) is considered for the above promotion. According to the petitioner he is fully qualified for the post of Assistant Librarian.

4.The prescribed qualification for the said post as per the Regulations of the UGC made in No.F3-1/2009 dated 30.06.2010 is as follows:

4.5.1 UNIVERSITY LIBRARIAN

- i. A Master's degree in Library Science/Information Science/Documentation with at least 55 % marks or its equivalent grade of B in the UGC seven point scale and a consistently good academic record set out in these regulations.
- ii. At least thirteen years as a Deputy Librarian in a University library of 18 years experience as a College librarian.

iii. Evidence of innovative library science and organization of published work.

iv. Desirable: A. Mphil/Ph.D Degree in Library Science/Information Science/Documentation/ achieves and manuscript- keeping.

4.5.3 UNIVERSITY ASSISTANT LIBRARIAN / COLLEGE LIBRARIAN

i. A Master's degree in Library Science/Information Science/Documentation or an equivalent professional degree with at least 55 percent marks (or an equivalent grade in a point scale wherever grading system is followed) and a consistently good academic record with computerization of library.

ii. Qualifying in national level test conducted for the purpose by the UGC or any other agency approved by the UGC.

iii. However, candidates, who are or have been awarded a Ph.D Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D Degree) Regulations, 2009 shall be exempted from the requirement of the minimum eligibility condition Assistant of NET/SLET/SET for recruitment and appointment of University Assistant Director of Physical Education/ College Director of Physical Education and Sports.

Therefore now the petitioner is eligible for the post of Assistant Librarian in view of the clauses in 4.5.1(i) and (iv) and 4.5.3(iii).

5. At the time of above said promotion of 4 persons in the year 2008, it was sufficient that the candidate must possess a M.Phil. degree, whereas a Ph.d. degree was not required at the relevant point of time. It is relevant that though, this petitioner had M.Phil. degree, he was not promoted as Assistant Librarian.

6. It is further case of the petitioner is that now the prescribed qualification for the post of Assistant Librarian is a Ph.D. Being so, nine post of Assistant Librarian fell vacant and hence the petitioner expected for an interview to the said post. In the Syndicate meeting held on 21.03.2013 it was decided to go ahead with the appointment of the Assistant Librarians, immediately after the selection committee meeting. But shockingly without calling the petitioner for Interview, the petitioner's juniors namely the respondents 2 and 3 in W.P.No.8601 of 2013 were called for an interview. Hence the petitioner submitted a representation on 22.03.2013 to the Registrar, Madras University to include his name for promotion. Since the said representation was not considered, he filed a writ petition in W.P.No.8601 of 2013 to direct the 1st respondent to promote the petitioner as Assistant Librarian. In the said writ petition after service of notice, the respondent failed to file a counter, despite of sufficient time given by this Court.

Hence on 11.11.2013 an interim order was passed to the effect that any promotion made thereafter shall be subject to the outcome of the above writ petition. Thereafter the 1st respondent University without considering the case of the petitioner took serious steps to fill up the above said 8 vacancies. Pursuant to the same, the respondent published a notification inviting application to filling up of vacancies through direct recruitment for the post of Assistant Librarian.

7. Thereupon, the petitioner again made a representation dated 14.09.2015, to consider his claim for promotion, but that too was not considered by the respondent. Therefore, the petitioner filed a Writ Petition in W.P.No.30240 of 2015 with prayer to appoint him as Assistant Librarian.

8. In so far as other writ petitions in W.P.Nos.11273 and 11274 of 2013, the petitioners namely M.Veerapandi and Selvi respectively, who are Assistant Technical Officers have challenged the impugned communication of the University of Madras dated 11.03.2013, whereby it was informed that their request for consideration of their names for promotion to the cadre of Assistant Librarian is not feasible, since only Technical Officers (Library) is liable to be appointed whereas Assistant Technical Officers are not feasible for appointment.

9. The respondent University filed individual counter in all the above writ petitions contending that petitioner in W.P.Nos.8601 of 2013 and 30240 of 2015 namely Baskaran cannot be considered for promotion to the post of Assistant Librarian, since it was resolved in the meetings held on 16.11.2012 and 18.02.2013 by the 1st respondent.

10. That apart the prime contention of the respondent university is that the post of Assistant Technical Officer is a Feeder category to the post of Technical Officer. Therefore those who have completed 10 years of service as a Assistant Technical Officer is eligible to be promoted to the post of Assistant Technical Officer. Under service conditions existed at the relevant point of time, there was no occasion for consideration of the petitioners' claim for promotion.

11. Moreover, earlier considerations of Technical Officer for the promotion as Assistant Librarian were made prior to the revised Regulations of UGC. Now the post of Technical Officer is alone a promotional post, therefore the petitioners who are Assistant Technical Officers are not liable for consideration to be promoted as an Assistant Librarian.

12. In so far as the cases of V.Kaliappan and P.Dhanasekaran, who were Technical Officers appointed as Assistant Librarian is

concerned, they stand in a different footing that they were fully qualified and eligible for the post of Assistant Librarian and that both of them qualified in NET in the month of December 2004 and December 1999 respectively. Whereas the petitioner namely Baskaran only on 11.06.2012 has made his application after obtaining the qualification prescribed by UGC.

13.I heard Mr.C.Selvaraj, Senior counsel for M/s.M.Muthukrishnan, learned counsel appearing for the petitioners in WP.Nos.8601 of 2013 and 30240 of 2015, Mr.L.Chandrakumar, learned counsel appearing for the petitioner in WP.Nos.11273 and 11274 of 2013, Mrs.G.Thilakavathi, Senior counsel for M/s.P.Aishwariya, learned counsel appearing for the 1st respondent in all the Writ Petitions, Mr.A.Raja Perumal, learned Additional Government Pleader, appearing for the 2nd respondent in WP.Nos.11273 and 11274 of 2013 and Mr.P.K.Gopinathan, learned counsel appearing for the 3rd respondent in WP.Nos.11273 and 11274 of 2013 and perused the entire records.

14.On careful perusal of records, it is seen from the Proceedings of the 1st respondent dated 11.10.2012 in line with a resolution of the Syndicate dated 11.10.2012, enclosed in page No.8 of the Additional typed set of papers in W.P.No.8601 of 2013, the petitioner's name was considered for appointment to the post of Assistant Librarian and a legal opinion was sought for by the 1st respondent.

15.In the said proceedings excepting the petitioner namely Baskaran's proposal, the other two candidates' namely P.Dhanasekaran and V.Kaliappan were held to be eligible for appointment as Assistant Librarians. Whereas, the petitioner's proposal was unconsidered as the same lacked the educational qualification particulars of the petitioner.

16.It is needless to say that the petitioner possesses the required qualification namely Ph.D. as contemplated under The Regulations of the UGC made in No.F3-1/2009 dated 30.06.2010 which 4.5.3 run as follows:

"However, candidates, who are or have been awarded a Ph.D Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D Degree) Regulations, 2009 shall be exempted from the requirement of the minimum eligibility condition Assistant of NET/SLET/SET for recruitment and appointment of University Assistant Director of Physical Education/ College Director of Physical Education and Sports."

17.Therefore, this Court is of the firm view that the denial of promotion to the petitioner on the ground that there was lack of

particulars in the proposal is highly improper. Moreover the said defect is curable one, more particularly when all the Certificates are vested with the university. In fact the 1st respondent must have immediately furnished all the relevant records and educational qualification particulars of the petitioner to the legal adviser. But the same was not done by the respondent university. When there are number of vacancies, there is no justification to ignore a Ph.D. degree holder to the post of Assistant Librarian.

18. In view of the fact that the petitioner despite having qualification is ignored in his promotional avenue for an omission by the 1st respondent, besides that there are vacancies available, this Court has no hesitation to allow the writ petition by directing the 1st respondent to appoint the petitioner as Assistant Librarian from the date on which the other two candidates' namely P.Dhanasekaran and V.Kaliappan were appointed and confer all consequential benefits thereon.

19. In the result, all the writ petitions stands allowed and the 1st respondent is directed to appoint the petitioners as Assistant Librarian from the date on which the other two candidates' namely P.Dhanasekaran and V.Kaliappan were appointed and confer all consequential benefits thereon.

20. In so far as the other two writ petitioners in W.P.Nos.11273 and 11274 of 2013 are concerned, both the writ petitioners having possessed M.L.I.S. and M.Phil. degrees. They have passed NET in the month of June 2012 and SLET in the month of February 2013 respectively. Both of them worked as Assistant Technical Officer in the 1st respondent University since 26.07.2010. Their grievance is that as per UGC Regulations 6.6.1 the post of Assistant Librarian in the University is the entry level post. Since the petitioners have required eligible qualification, their claim is liable to be considered under Direct Recruitment.

21. As discussed above, the minimum required qualification for the post of Assistant Librarian is a Master Degree in Library Science with 55% and a pass in NET and SLET. Admittedly, both the writ petitioner posses required qualification. As rightly contented by the learned counsel for the petitioners, on misconception the respondent university has rejected their claim, for that the petitioners have made a claim for promotion to the post of Assistant Librarian.

22. Whereas the 1st respondent failed to appreciate that the petitioner's claim is not a case of promotion but is for a direct recruitment. It is needless to say that merely because the petitioners have made a claim in a different version, having

possessed the required qualification they cannot be denied to be appointed as an Assistant Librarian, if otherwise eligible. Therefore in the considered opinion of this Court, the impugned order dated 11.03.2013 by the 1st respondent is liable to be quashed.

23.For the forgoing reasons, this Court is of the view that the claim of the petitioners in W.P.Nos.11273 and 11274 of 2013 shall be considered for appointment to the post of Assistant Librarian under direct recruitment if they are otherwise eligible.

24.In the result, all these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vs
To

1.The Registrar,
University of Madras,
Centenary Buildings, Chepauk,
Chennai - 5.

2.The Principal Secretary,
Higher Education Department,
Government of Tamil Nadu,
Fort St. George, Chennai-9.

3.The Secretary,
University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi - 110 002.

+1cc to Mr.R.Gopinath, Advocate Sr. 74694
+2cc to Mr.L.Chandrakumar, Advocate Sr. 74895
+1cc to Mr.M.Muthukrishnan, Advocate Sr. 74985

order made in
W.P.Nos.8601, 11273 and 11274 of 2013 and
W.P.No.30240 of 2015 and
M.P.Nos.1,2,1,2,1,2 of 2013 and
MP.No.1 of 2015 & WMP.No.8046 of 2016

VR(26/10/2017)