

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2017

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.39010 of 2015 and
WMP.Nos.32010 to 32012/2016

Dr.S.Selvakumari

... Petitioner

Vs.

1. The Government of Tamil Nadu
rep. by its Secretary,
Higher Education Department,
Fort St. George, Chennai-9.
2. The Director of Collegiate Education,
DPI Campus, College Road,
Chennai-6.
3. The Registrar,
Tamil Nadu Teachers Education University,
Lady Willington College Campus,
Chennai.
4. The Secretary,
Meston College of Education,
West Cott Road, Royapettah,
Chennai-14.
5. The Registrar,
University of Madras,
Chennai-5.

(R5 impleaded as per order dt.25.10.2016 in
WMP.No.32010/2016 in WP.No.39010/2015)

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to India for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order of the 5th respondent vide No.AII/NR/Meston/Tamil/App.Qual/2007/1947 dated 07.09.2007 and quash the same and directing the respondents to sanction the post of Lecturer in Tamil w.e.f. 14.08.2007 to the 4th respondent college and approve the appointment of the petitioner as Lecturer in Tamil w.e.f. 17.08.2007 with all monetary benefits from 17.08.2007 till 09.09.2009 on the basis of the proposal of the 4th respondent dated 17.06.2009 and 02.03.2010

and retirement/terminal benefits by considering the representations of the petitioner dated 25.11.2009, 08.07.2015 and 12.09.2015.

(Prayer amended as per order dated 25.10.2016 in WMP.No.32011/2016 in W.P.No.39010/2015)

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.A.Zakkir Hussain,
Government Advocate for R1&R2
Mr. U.Venkatesan for R3
Mr.V.Selvaraj
for Mr.Devadason & Sagar for R4
Mrs.G.Thilakavathi,
Senior Counsel for R5

O R D E R

Heard Mr.S.N.Ravichandran, learned Counsel for the petitioner, Mr. A.Zakkir Hussain, learned Government Advocate appearing for the respondents 1 and 2, Mr.U.Venkatesan, learned Standing Counsel appearing for the 3rd respondent, Mr.V.Selvaraj, learned Counsel for M/s.Devadason & Sagar, learned Counsel appearing for the 4th respondent and Mrs.G.Thilakavathi, learned Senior Counsel appearing for the 5th respondent.

2. This Writ Petition had initially been filed for a Writ of Mandamus to disburse the UGC Scale of pay to the post of Assistant/Associate Professor in Tamil to the petitioner from 17.08.2007, the date of her appointment in the 4th respondent College, till the date of her superannuation on 31.05.2016. Subsequently, the prayer in the writ petition was amended vide order dated 25.10.2016 in WMP.No.32011/2016 in W.P.No.39010/2015 in and by which the petitioner challenged the order passed by the University of Madras dated 07.09.2007 whereby the University rejected the request made by the 4th respondent College for approval of the qualification of the petitioner on the ground that the petitioner did not possess M.Phil/Ph.D. in Education as per the qualification prescribed for Lecturers in Education Colleges. Consequential relief sought for by the petitioner is to pay the monetary benefits from the date of her appointment on 17.08.2007 till the end of the academic year 31.05.2016.

3. It is not in dispute that the 4th respondent college is a College of Education providing B.Ed. and M.Ed. degrees to the students who have been enrolled. The college invited applications for appointment to the post of lecturer in Tamil vide advertisement dated 20.05.2007 published in ''THE HINDU''.

The petitioner, in response to the said advertisement, applied on 22.05.2007 stating that she possesses M.A., M.Ed., M.Phil., and also Ph.D. which she secured on 08.01.2007. The University of Madras, which was the affiliating University of the 4th respondent College, by proceedings dated 22.06.2007 constituted a Selection Committee. Three candidates appeared before the Selection Committee and one of which is the petitioner. The Selection Committee in its meeting held on 14.08.2007 at 03.30 p.m. selected the petitioner for appointment to the post of Lecturer in Tamil in the 4th respondent college. The 4th respondent college by communication dated 14.08.2007, appointed the petitioner to the said post subject to the approval of her qualification by the University of Madras. Agreeing to the said condition, the petitioner joined duty on 17.08.2007.

4. The University of Madras by the impugned proceedings dated 07.09.2007 rejected the approval on the ground that the petitioner did not possess the prescribed qualification.

5. The short issue which falls for consideration in this Writ Petition is whether on the date of notification which was published by the 4th respondent College, did the petitioner possess the requisite qualification.

6. Admittedly, at the relevant point of time, the 4th respondent college was affiliated to the University of Madras which formulated regulations by adopting the University Grant Commission Regulations, 2000 which prescribes minimum qualification for appointment to various posts. Clause 1.4.3 of Appendix-33 of the University of Madras Regulations reads as follows:

'1.4.3. Lecturer

Good academic record with at least 55% marks (or an equivalent grade) at Master's degree level or an equivalent qualification from an Indian or foreign University/recorgnized institution in Communication/Mass Communication/Journalism Candidates, besides fulfilling the above qualification, should have cleared the eligibility test for lecturers conducted by UGC or similar test accredited by the UGC.

Note :NET shall remain the compulsory requirement for appointment as Lecturer even for candidates having Ph.D. Degree. However, the candidate who have completed M.Phil. Degree or have submitted Ph.D. thesis in the concerned subject up to 31st December, 1993 are exempted from appearing in the NET examination.'

7. In 2008, the 3rd respondent Tamil Nadu Teachers Education University was constituted and after which affiliations were transferred to the said University and it has also adopted the UGC Regulations and fixed the requisite

qualification for the said post. To be noted, the fundamental requirement to be eligible, to be appointed is that the candidate should possess a Ph.D. in Education.

8. Admittedly, on the date, when the advertisement was published on 20.05.2007, the petitioner did not possess the qualification prescribed by the University of Madras which in fact adopted the UGC Regulations. The petitioner did not possess the NET Qualification and did not have a Ph.D. in Education. The petitioner also does not enjoy the exemption from the same because she does not fall within the cut off date 31.12.1993 and only those candidates within the said cut-off date were exempted from NET qualification. Though the petitioner has subsequently completed the M.Phil. in Education, in terms of the qualifications prescribed by the Tamil Nadu Teachers Education University, w.e.f. 18.09.2000 has not been fulfilled by the petitioner. For better appreciation, the said qualification is quoted herein below:

'Qualification for B.Ed. Course :

ii. Assistant Professor:

a. Foundation Courses

1. A Master's Degree in Science/Humanities/Arts with 50% marks (or an equivalent grade in a point scale wherever grading system is followed);

2. M.Ed. with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed); and

3. Any other stipulation prescribed by the UGC/any such affiliating body/State Government, from time to time for the positions of Principal and Lecturers, shall be mandatory.

b. Methodology Courses:

1. A Master's Degree in subject with 50% marks (or an equivalent grade in a 7 point scale wherever grading system is followed);

2. M.Ed. Degree with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed); and

3. Any other stipulation prescribed by the UGC/any such affiliating body/State Government, from time to time for the position of Principal and Lecturers, shall be mandatory.

Provided that at least one lecturer should have specializations in ICT and another in the special education.

B. Qualifications for M.Ed. Course

(ii) Associate Professor

a. A. Master's DEgree in Arts/Humanities/Sciences/Commerce and M.Ed. each with a minimum of 55% marks (or an equivalent grade in a 7 point scale wherever grading system is followed);

b. Ph.D. in Education; and

c. At least eight years of teaching experience in University Department of Education or College of Education, with a minimum of three years at the M.Ed. level and has published work in the relevant area of specialization.

(iii) Assistant Professor

a. A Master's Degree in Arts/Humanities/Sciences/Commerce and M.Ed. each with a minimum of 55% marks (or an equivalent grade in a 7 point scale wherever grading system is followed),

b. Any other stipulation prescribed by the UGC/such other affiliating body/State Government, from time to time for the positions of Principal and Lecturers, shall be mandatory.

Provided that it is desirable that one faculty member possess a Master's Degree in Psychology and another member in Philosophy/Sociology besides M.Ed.''

5. I submit that as the above said UGC notification was published in the Gazette of India on 18.09.2010, the above qualifications shall come into effect only from 18.09.2010.''

9. Thus, in terms of the above stipulation, the petitioner should have possessed a Ph.D. in Education. Since the 4th respondent institution offers both B.Ed. and M.Ed. Programmes, a person to be appointed as an Assistant Professor or Associate Professor, P.h.D. is mandatory. Thus, it is evidently clear that on the date, when the advertisement was issued by the 4th respondent college on 20.05.2007, the petitioner did not possess the prescribed qualification. It may be true that the advertisement published by the college does not contain full particulars, however, that does not absolve the petitioner from possessing the minimum qualification which has been framed by adopting UGC norms. Therefore, there is no error in the order dated 07.09.2007 of the 5th respondent. Having held so, the only course open is to reject the prayer sought for in the writ petition.

10. It is submitted by the learned Counsel for the 4th respondent College, that they have forwarded a proposal to the 2nd respondent on 02.03.2010 which in fact is a reminder of their earlier proposal which has been submitted to the Director of Collegiate Education for approval of the appointment of the petitioner and others. It is submitted that the said proposal is now pending with the 2nd respondent, namely, the Director of Collegiate Education. Thus, considering the fact that the petitioner had been working since August, 2007 till she attained the age of superannuation and retired at the end of the academic year on 31.05.2016, this Court is of the view that the 2nd respondent may consider the proposal submitted by the 4th

respondent College and for which purpose, the Court may be inclined to issue appropriate directions.

11. In the light of the above discussion, this Court is of the view that the petitioner has not made out any case to set aside the impugned order. Accordingly, the Writ Petition stands dismissed, however, there will be a direction to the 4th respondent College to submit a fresh request to the 2nd respondent along with a copy of this order, setting out the facts and circumstances of the petitioner's case and the date when she acquired the requisite qualification and it is for the 2nd respondent to consider such proposal in accordance with law. The proposal shall be forwarded by the 4th respondent in terms of the above direction within a period of three weeks from the date of receipt of a copy of this Order. No costs. Consequently, connected Miscellaneous Petitions are also closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Secretary,
Government of Tamil Nadu,
Higher Education Department,
Fort St. George, Chennai-9.
 2. The Director of Collegiate Education,
DPI Campus, College Road,
Chennai-6.
 3. The Registrar,
Tamil Nadu Teachers Education University,
Lady Willington College Campus,
Chennai.
 4. The Registrar
University of Madras Chennai-5
- +1 cc to M/s.U.Venkatesan Advocate sr 10969
+1 cc to M/s.Devadasan & Sagar Advocate sr 11488
+1 cc to M/s.S.N.Ravichandran Advocate sr 10975

W.P.No.39010 of 2015

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