

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.07.2017

DELIVERED ON : 27.11.2017

CORAM:

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Writ Petition No.16731 of 2013
and
M.P.No.2 of 2013

Jane Helena ... Petitioner

Vs.

1.The Registrar,
Anna University,
Sardar Patel Road,
Chennai - 600 025.

2.Dr.S.Karthikeyan

3.Dr.S.Karthigeyan

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records pertaining to the Minutes of the "215th Meeting of the Syndicate" of the first respondent held on 22.06.2012, which confirms the Minutes of the "214th Meeting of the Syndicate" of the first respondent held on 30.04.2012, to quash that portion which adversely affects the petitioner and consequently, direct the first respondent to issue an appointment order as Associate Professor to the Petitioner, an internal candidate, with effect from 22.06.2012, the date on which the selected internal candidates, viz., 2nd respondent DR.S.Karthigeyan Sl.No.11 of Annexure 2 of the Minutes and DR.L.Subbaraj Sl.No.3 of Annexure 2 of the Minutes were issued appointment orders, along with the pay that go with the post.

For Petitioner : Mr.C.Franco Louis

For Respondents : Mr.M.Vijayakumar (for R1)
Standing Counsel

No appearance (for R2 and R3)

ORDER

The petitioner has filed this writ petition seeking issuance of a writ of Certiorari Mandamus to call for the records pertaining to the Minutes of the "215th Meeting of the Syndicate" of the first respondent held on 22.06.2012, which confirms the Minutes of the "214th Meeting of the Syndicate" of the first respondent held on 30.04.2012, to quash that portion which adversely affects the petitioner and consequently, direct the first respondent to issue an appointment order as Associate Professor to the Petitioner, an internal candidate, with effect from 22.06.2012, the date on which the selected internal candidates, viz., respondents 2 and 3, were issued appointment orders.

2. Succinctly put, the facts are as follows: According to the petitioner, at the relevant time, she was working as Assistant Professor in the Department of Civil Engineering, Anna University, Chennai. The first respondent/University issued an advertisement on 14.01.2011 inviting applications to fill up 80 posts in various departments of Anna University, of which we are concerned with the post of Associate Professor. A corrigendum was also issued on 20.02.2011.

3. It is the case of the petitioner that she is fully qualified for the post of Associate Professor and, accordingly, applied for the said post. However, since she was not called for interview, she sent a letter through proper channel on 07.06.2012, pursuant to which she was called for interview on 11.06.2012, and appeared for the interview before the Selection Committee. It is claimed that even though seven vacancies were available and she belongs to BC (CFV) reservation category as per roster, no appointment order was issued to her and the reason, according to the petitioner, is that even though she was ranked first, she was selected and placed in the General Category GT(W) (DW) of reservation and the said fact came to the knowledge of the petitioner only after seeing the copy of the minutes of the 215th Syndicate Meeting held on 22.06.2012.

4. It is further alleged that vide the said minutes dated 22.06.2012, it was resolved that the case of the petitioner cannot be considered since she has possessed required eight years of service, including the service rendered by her as Teaching Research Associate (TRA) in the first respondent/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.

5. It is the case of the petitioner that one Dr.G.Sakthinathan, whose name finds place at Serial No.1 of Annexure 29 qua the Department of Automobile Engineering, with similar TRA experience has been called for interview, selected and issued appointment order.

6. Alleging that the petitioner has been discriminated and even though she stood first in interview, she had been placed in Open Category for Women, though she belongs to BC (CFV), the present writ petition is filed for the relief stated supra.

7. At the time of admission of this writ petition, an order of interim injunction was passed on 20.06.2013 in M.P.No.2 of 2013 in this writ petition and in the counter affidavit, filed by the first respondent University it is specifically stated that "one post of Associate Professor - (GT(W)(DW)) is kept vacant against the petitioner as per the interim direction of the Hon'ble High Court."

8. In the counter affidavit, it is not disputed that one Dr.G.Sakthinathan was appointed as Associate Professor in the Department of Automobile Engineering taking into consideration the service rendered by him as TRA in the first respondent University.

9. I heard Mr.C.Franco Louis, learned counsel for the petitioner and Mr.M.Vijayakumar, learned Standing Counsel for the 1st respondent and perused the documents on record.

10. It is beyond any cavil that the first respondent University sent a call letter on 08.06.2012 directing the petitioner to appear for an interview for the post of Associate Professor, Department of Civil Engineering. There is not a whisper in the counter affidavit, disputing the plea of the petitioner that she stood first in the interview conducted by the first respondent University. Even though the petitioner belongs to BC Community, she was considered under the category of GT(W)(DW). The relevant portion of the said minutes is as under:

Roaster	Sl.No	Name of the candidate	Com.	Starting pay recommended
SC (W) (CFV) Selected	6	Dr.S.Karthigeyan	SC	As per norms
SC (CFV) Selected	11	Dr.S.Karthigeyan	SC	As per norms

Roaster	Sl.No .	Name of the candidate	Com.	Starting pay recommended
MBC (CFV)		No one found suitable		
BC (CFV) Selected	3	Dr.L.Subbaraj	BC	As per norms
GT (W) (DW) Selected	5	Dr.H.Jane Helena	BC	As per norms

11. However, in the very same minutes, it was specifically stated that the case of the petitioner cannot be approved as she has possessed the required years of eight years service, including the service rendered by her as TRA in the first respondent University, whereas certain candidates with similar TRA service who applied for the post of Associate Professor in the said Department were, inadvertently, not called for interview.

12. The petitioner was called for interview only after considering her qualifications, including experience, which she has explicitly stated in her application for the said post. The only ground raised in the said minutes is that certain candidates with similar TRA service who applied for the post of Associate Professor were, inadvertently, not called for interview. The said inadvertent act of the first respondent University, in my considered view, cannot be put against the petitioner, when admittedly neither her qualification, nor her experience is disputed by the first respondent University.

13. In fact, the first respondent University fairly admits that one G.Sakthinathan, who had rendered similar TRA service, was selected and appointed, of course in a different department. As is seen from the documents on record, the fact remains that persons who have rendered TRA service were also selected and appointed pursuant to the very same notification. That being the admitted position, it does not lie in the mouth of the first respondent University to say that the petitioner's case cannot be considered for appointment as similarly placed persons were not called for interview. The procedure being adopted by the first respondent University in respect of each department cannot certainly vary. Therefore, the act of the first respondent University in not granting appointment to the petitioner certainly smacks of arbitrariness and amounts to discrimination.

14. That apart, it is also pleaded by the petitioner in the rejoinder filed on 10.07.2017 that similarly placed persons with TRA experience were issued appointment orders to the post of

Associate Professor with reference to the very same advertisement dated 14.01.2011. The list of such appointments is as under:

Sl.No.	Dr.
1.	G.Sakthinathan, Department of Automobile Engineering
2.	S.Kalaiselvam, Department of Mechanical Engineering
3.	M.Omkumar, Department of Manufacturing Engineering
4.	M.R.Sumalatha, Department of Information Technology
5.	K.V.Radha, Department of Chemical Engineering

15. Admittedly, the petitioner, without prejudice to her rights in the writ petition, attended the interview for the post of Associate Professor and joined in the said post on 26.11.2014. But, in view of the observations made above, she ought to have been considered for appointment to the post of Associate Professor with effect from 22.06.2012, the date on which respondents 2 and 3 were appointed.

16. In the result:

i. The writ petition is allowed and the impugned orders dated 30.04.2012 and 22.06.2012 are quashed in respect of that portion which adversely affects the petitioner;

ii. The first respondent University is directed to issue formal appointment order, appointing the petitioner, an internal candidate, as Associate Professor with effect from 22.06.2012, the date on which respondents 2 and 3 were appointed and grant all consequential service and monetary benefits to the petitioner (notwithstanding the fact that she was selected and appointed as Associate Professor subsequently with effect from 26.11.2014);

iii. The first respondent is directed to complete the said exercise within a period of eight weeks from the date of receipt of a copy of this order.

iv. No costs. Consequently, M.P.No.2 of 2013 is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vs

To

The Registrar,
Anna University,
Sardar Patel Road,
Chennai - 600 025.

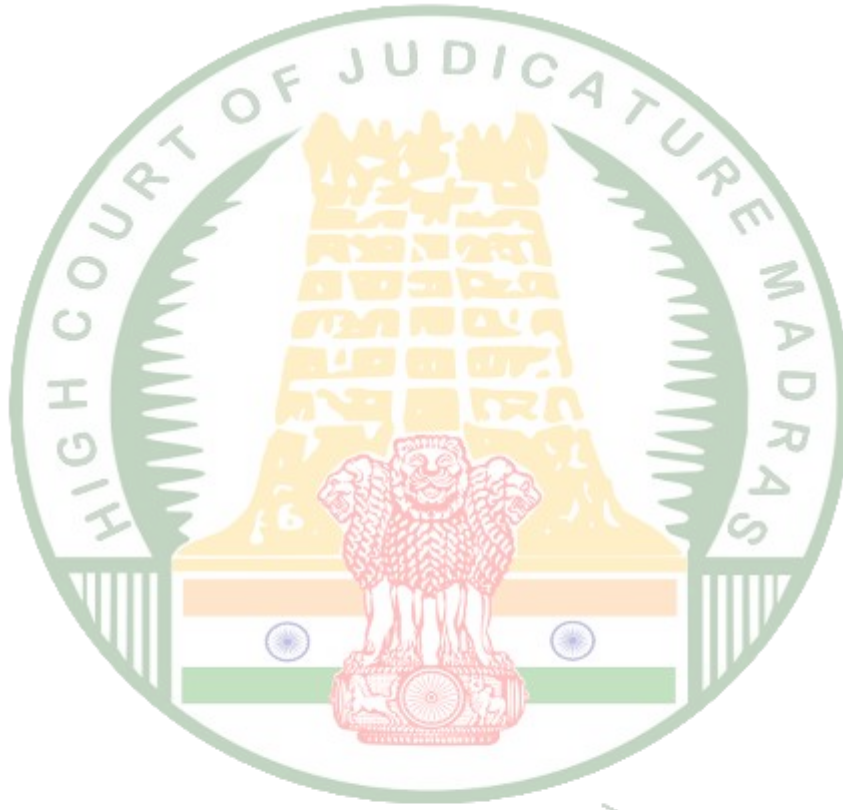
+1cc to Mr.C.Franco Louis, Advocate, S.R.No.84458
+1cc to Mr.Vijayakumar, Advocate, S.R.No.84563
+1cc to the Government Pleader, S.R.No.84737

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VG II(CO)
RRK(24/01/2018)



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