

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.29372 of 2013

and

M.P.No.1 of 2013

and

M.P.No.1 of 2014

R.Renuga

... Petitioner

Vs.

The Commissioner,
Department of Technical Education,
Guindy,
Chennai 600 025.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Orders passed by the Respondent dated 17.12.2012 passed in foj vz; 8074/rp3/2012 and foj vz; 8074/rp3 dated 05.09.2013 and quash the same and consequently direct the respondent to approve the Petitioner qualification for Head of the Department as per the interview conducted on 10.02.2012.

For Petitioner : Mr.S.A.Gandhi

For Respondent : Mr.R.Govindasamy
Special Government Pleader

ORDER

This writ petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Orders passed by the Respondent dated 17.12.2012 passed in foj vz; 8074/rp3/2012 and foj vz; 8074/rp3 dated 05.09.2013 and quash the same and consequently direct the respondent to approve the Petitioner qualification for Head of the Department as per the interview conducted on 10.02.2012.

2.The case of the petitioner is that she completed her B.E. Degree course in Instrumentation and Control Engineering with

first class degree during the year 1998 in faculty of Engineering conducted by the Bharathiar University. Thereafter, she was joined as Programmer in Computer Science and Engineering Department at CIT Polytechnic, Coimbatore, during the month of December 1992 and worked with unblemishable record of service till 1999. Later on, since there was no up-gradation in the said job, she has been migrated to CIT Sandwich Polytechnic College as Senior Lecturer in Instrumentation and Control Engineering Department during July 1999, after attending interview conducted by the CIT Sandwich Polytechnic College.

3.It is the further case of the petitioner is that the petitioner attended the Tamil Nadu Common entrance Test and through single window Anna University counseling and she got admission for doing M.E. Course in Computer Science and Engineering. Thereafter, she got a permission from the Directorate of Technical Education by proceeding No.Se.Mu., Mu.Mu.No.22345/rp3/2004, dated 03.08.2004 to study the course of M.E. Part Time Course with the following conditions:

"a)Because of the study there should not be any loss to the Government.

b)The education of the students should not be affected.

c)No leave shall be obtained in the guise of higher education."

4.When the petitioner was got permission for the Ph.D. Course from the Directorate of Technical Education in proceeding Mu.Mu.No.24173/rp3/2007, dated 06.08.2007 and the same conditions while already granted permission for doing M.E., Course and accordingly, the petitioner also completed her Ph.D. Course in Anna University of Technology, Coimbatore during the year 2011.

5.As per the G.O.Ms.No.563 Higher Education C2 Department dated 31.12.2004 and G.O.Ms.No.1081, dated 19.08.1989, which prescribed for the qualification for 10 years experience as Senior Lecturer and she must have possess required educational qualification. Considering her 10 years experience of service, this petitioner was upgraded as Head of the Department from 31.07.2009. As per the orders of the Chief Secretary and Directorate of Technical Education, dated 22.12.2009 in Proceeding No.40057/rp3/2009 the petitioner's service was upgraded and thereafter, she was appointed as Head of the Department and her service also regularized.

6.It is the further case of the petitioner is that based on the G.O.Ms.No.1081 Education (J1) Department dated 19.08.1989, the Government has decided to revise the scale of pay of the Department of Technical Education with effect from 01.01.1974

and the U.G.C. scale of pay, the Government Engineering College and other comparable institutions the revised pay scale has been given to the Polytechnic Institution. Lecturer with 10 years of satisfactory service being the qualification required for the Head of the Department will be upgraded to Head of the Department. The qualification prescribed by All India Council for Technical Education as per G.O.Ms.No.563 Higher Education (C2), dated 31.12.2004 Appendix-B for becoming the Head of the Department, the qualification and experience for the teaching post in Diploma level Technical Institution, Master Degree in appropriate branch of Engineering/Technology with first class at Master's or Bachelor's level with 5 years experience in Teaching / Industry research at the level of Lecturer or equivalent.

7.The All India Council for Technical Education has also circulated G.O.Ms.No.563 dated 11.06.2005 to all the aided Colleges and to follow the said G.O. Apart from this, the Government of Tamilnadu has also passed another G.O.Ms.No.337 Higher Education (C2), dated 27.08.2009 and advised to follow the G.O.Ms.No.563 dated 11.06.2005 until Pay Revision is made. Therefore, the above G.O.Ms.No.563 dated 11.06.2005 is made clear that the senior lecturer with 10 years experience with required educational qualification can be upgraded as Head of the Department. Therefore, based on the above Government Orders, the Colleges were upgraded the petitioner as Head of the Department in Instrumentation and Control Engineering Department as per the G.O.Ms.No.563 and G.O.Ms.No.1081.

8.It is the further case of the petitioner is that on 10.02.2012 the petitioner also appeared for regular Head of the Department interview (under direct recruitment) in which the petitioner was selected. Pursuant to the above interview, on 23.02.2012 the selection list was sent by the College to the Directorate of Technical Education for approval, but the Directorate of Technical Education was failed to approve the said selection and thereafter, the same was communicated to the Principal of the College, in turn the Principal of the CIT Sandwich Polytechnic College has communicated the decision of the respondent to the petitioner.

9.Furtherance of the above order and noting about the rejection order by the Directorate of Technical Education, this petitioner has sent a proposal through the Principal, CIT Sandwich Polytechnic College, along with the entire details with a request to approve the selection of Head of the Department, but the Directorate of Technical Education, once again has rejected the request as per the proceeding dated 05.09.2013. Challenging the said rejection order dated 05.09.2013, the petitioner has filed the present writ petition.

10.A counter affidavit has been filed by the respondent/ Commissioner, Department of Technical Education, Chennai-25 by denying the entire allegations set out in the affidavit.

11.The respondent states that the petitioner Tmt.R.Renuga, was selected as Senior Lecturer in Instrumentation and Control Engineering Department through Staff Selection Committee held on 09.06.1999 in the CIT Sandwich Polytechnic College, Coimbatore, which was an aided institution receiving 90% grants from the Government. Thereafter, the petitioner was appointed as Senior Lecturer by the Director of Technical Education as per the order dated 13.07.1999.

12.The respondent also admitted that though the petitioner got permission to study M.E. (Part time) Course in Computer Science Engineering for the academic year 2004-2005 vide Directorate of Technical Education's Proceeding No.K/:K:/22345-rp3-2004. dated 03.08.2004, before the issuance of G.O.Ms.No.563, Higher Education Department dated 31.12.2004, which was issued for the implementation of certain guidelines and recommendations of AICTE for the staffs working in Diploma level Government and Aided Polytechnic Colleges. The respondents also submitted that as per G.O.Ms.No.1081, Education, dated 19.08.1989, which stated as follows:

“(7) Recruitment and Qualifications:

Recruitment to the posts of Associate Lecturers in Polytechnics and Special Diploma Institutions will be done by the Tamil Nadu Public Service Commission, or any other Educational Agency to be identify by the Government for conduct of tests and selection of eligible candidates. At the time of recruitment candidates shall possess adequate knowledge of Tamil.

The minimum qualification for appointment to the posts of Associate Lecturer will be First Class in Bachelor degree in the relevant discipline.

A Lecturer should complete 10 years of service in that level and shall possess either a Master's Degree or Bachelor's degree in Engineering for Promotion as Head of Department.

(10) Upgrading Scheme:

The upgradation scheme in Polytechnics will be modified in future, on the basis of the number of years of service put in by them and qualification. An Associated the Lecturer with 10 years experience and possessing the qualification required for a Lecturer may be upgraded as lecturer on completion of years of satisfactory service as Associate Lecturer. Similarly the Lecturer with 10 years of satisfactory service as Lecturer and having the qualification required for a

Head of Department will be upgraded as a Head of Department. They will also be eligible for service concessions detailed in Para 8 & 9 above. However, persons who have already moved to Higher Categories by existing upgradation scheme will be allowed to continue in that post provided he possesses the prescribed qualification."

13.The respondent further states that the Post of Associate Lecturer and Lecturer were re-designated as Lecturer and Senior Lecturer respectively as per the G.O.Ms.No.1170, Education Department, dated 13.12.1994. As per the above G.O., the petitioner was given upgradation as Head of Department on 31.07.2009 as per the Upgradation scheme, since the upgradation scheme is given to the Polytechnic teaching staff only due to the stagnation of next higher level promotions.

14.As per the G.O.Ms.No.1081, Education (J1) Department, dated 19.08.1989, the Government of Tamilnadu has revised the scale of pay of the Department of Technical Education with effect from 01.01.1986 when the UGC scale of Government Engineering College and other comparable Institution the revised pay scale has been given to the Polytechnic Institution.

15.The Lecturer with 10 years of service and having qualification required for the Head of the Department will be upgraded to the Head of the Department, eventhough there was no vacancy in the post of Head of the Department (ICE) in the said college. The minimum qualification for the post of Head of Department for upgradation as per G.O.Ms.No.1081, Education Department, dated 19.08.1989 is only a Bachelor's degree in Engineering.

16.The respondents also states that as per the G.O.Ms.No.126, Higher Education, dated 28.03.1999 was issued for the various guideline / notifications issued by the AICTE along with the scheme for revision of scale of pay on certain items. The orders on some of the remaining items were issued in G.O.Ms.No.563, Higher Education Department, dated 31.12.2004 for the implementation of certain guidelines and recommendations of All India Council for Technical Education. Therefore, the Commissioner of Technical Education has circulated the above G.O. to all the aided Colleges to follow the same for the recruiting of Teaching Staff through Staff Selection Committee. But, the G.O. is very clear that the post of Senior Lecturer with 10 years experience with required educational qualification can be upgraded as Head of the Department. Based on the Government Orders, the petitioner was upgraded as Head of the Department in Instrument and Control Engineering Department. But, the qualification prescribed in G.O.Ms.No.1081, Education

Department, dated 19.08.1989 to follow only for the upgradation scheme, since the Government Aided Polytechnic Colleges all the sanctioned post was filled up through Staff Selection Committee only. The Government have updated the eligibility norms for the Polytechnic Teachers as per the AICTE guidelines issued from time to time. Thereafter, the Government Aided Polytechnic Colleges, the revised qualifications and eligibility norms have to be followed as per G.O.Ms.No.111, Higher Education Department, dated 25.05.2010 which was issued by the AICTE. The qualifications for the post of Head of Department in Polytechnic Colleges are as follows:

Post	Qualification	Experience
Head of Department (Engineering/ Technology)	Bachelor's and Master's degree of appropriate branch in Engineering / Technology with First Class or equivalent either Bachelor's or Master's level.	Minimum of 10 years relevant experience in teaching / research / industry.
	(OR) Bachelor's degree and Master's degree of appropriate branch in Engineering/ Technology with First Class or equivalent either Bachelor's Master's level and Ph.D. or equivalent in appropriate discipline in Engineering/ Technology.	Minimum of 5 years relevant experience in teaching / research / industry.

17.The respondent further states that the above said G.O. was issued only based on All India Council for Technical Education Pay Scales, Service Conditions and Qualifications for the Teachers and other Academic Staff in Technical Institutions (Diploma) Regulations, 2010. Therefore, the said Government Order has clearly shows that the qualification for the post of Head of the Department in Polytechnic Colleges is Bachelor's degree and Master's degree in appropriate Branch in Engineering and Technology with first class or equivalent either Bachelor's or Mater's level with minimum 10 years relevant experience in the teaching / research industry or Bachelor's Degree and Master's Degree in appropriate Branch in Engineering and Technology with First class or equivalent either Bachelor's or Master's level and Ph.D. or equivalent in appropriate discipline in Engineering Technology with minimum 5 years relevant experience in the teaching / research industry.

18.The respondent further states that though the petitioner was working as Upgraded Head of the Department on 30.07.2009,

the Staff Selection Committee conducted the interview on 10.02.2012 for the post of regular Head of the Department (Instrumentation and Control Engineering Department). But the petitioner does not possess M.E. (Instrumentation and Control Engineering) and she is in possession of B.E. (Instrumentation and Control Engineering) and M.E. (Computer Science and Engineering). Therefore, the petitioner is not qualified for the post of Head of the Department as per the orders issued in G.O.Ms.No.111, Higher Education Department, dated 25.05.2010, since the petitioner college is an Aided Polytechnic College, the appointment to the post of Head of the Department (ICE), which was prescribed in Grant-in-Aid Code. When the petitioner does not possess the qualification for the post of Head of the Department (Instrumentation and Control Engineering Department) as per the revised qualifications issued in G.O.Ms.No.111, Higher Education Department, dated 25.05.2010 and Instrumentation and Control Engineering Department not related subject for Computer Science and Engineering Department. Therefore, she is not eligible for the post of Head of the Department (Instrumentation and Control Engineering) as an internal candidate.

19.It is further stated by the respondent that the petitioner College i.e. CIT Sandwich Polytechnic College, Coimbatore, conducted an interview by the Staff Selection Committee for the vacant post of Head of the Department (Instrumentation and Control Engineering) and selected the petitioner as an Internal candidate, but the selection of the petitioner as Head of Department (ICE) was rejected by the respondent Commissioner of Technical Education vide letter No.8074/C3/2012, dated 17.12.2012, for the reason that she does not possess the relevant M.E. Course as per G.O.Ms.No.111, Higher Education Department, dated 25.05.2010. Though the petitioner worked as Lecturer (Selection Grade) in Instrumentation and Control Engineering. Therefore, the petitioner has not possessed P.G. qualification i.e. M.E., in the relevant subject for the post of Head of the Department (Instrumentation and Control Engineering). Therefore, the claim of the petitioner is not feasible and hence, the respondent prayed for dismissal of the writ petition.

20.I heard Mr.S.A.Gandhi, learned counsel appearing for the petitioner and Mr.R.Govindasamy, Special Government Pleader appearing for the respondent and perused the entire records.

21.Originally, the petitioner was having the qualification of B.E. Degree (Instrumentation and Control Engineering) with first class degree in the year 1998. Thereafter, as per the permission granted by the Directorate of Technical Education dated 03.08.2004, the petitioner studied M.E. part time course

in Computer Science and Engineering. Thereafter, as per the proceedings of the Directorate of Technical Education, dated 06.08.2007, the petitioner was permitted for doing her Ph.D. course and accordingly she also completed her Ph.D. Course at Anna University of Technology, Coimbatore during the year 2011.

22. Based on the degree in B.E. (Instrumental computer engineer) the petitioner was appointed as Programmer in Computer Science and Engineering Department during the year December 1992 and worked without any blemish in her service till 1999. The petitioner's service was migrated, since there is no upgradation in the said job in the Engineering Department at CIT Sandwich Polytechnic College, Coimbatore as Senior Lecturer in Instrumentation and Control Engineering Department during July 1999, based on the interview attended by the petitioner at CIT Sandwich Polytechnic College. Thereafter, she completed the M.E. part time course and also completed her Ph.D. Course.

23. Since the petitioner was joined in the year 1992 and thereafter in the year 1999 she migrated from CIT Sandwich Polytechnic College, Coimbatore as Senior Lecturer in Instrumentation and Control Engineering Department till July 1999, after completion of 10 years in the post of Lecturer in Instrumentation and Control Engineering Department, the petitioner was upgraded as Head of the Department from 31.07.2009 as per the G.O.Ms.No.563 Higher Education C2 Department and G.O.Ms.No.1081, dated 31.12.2004, since both the G.O.s were prescribed the qualification for the post of Head of the Department that the petitioner must have 10 years experience as Senior Lecturer and posts required educational qualifications. It is also pertinent to note that the Chief Secretary and the Directorate of Technical Education, by his proceedings dated 22.12.2009 upgraded the petitioner and thereby she was appointed as Head of the Department and her service has been regularized from the said dates. As per the AICTE notification dated 28.04.2017, it made clear that the incumbent faculty recruited in the past based on their qualification acquired will continue to be eligible in the departments they were recruited to.

24. The respondent without noting the G.O.Ms.No.444, Education Department dated 11.03.1980 it was prescribed the qualification for the post of Lecturer in Instrumentation Technology, Instrumentation Technology or Electronics and Communication Engineering shall be considered as the branches relating to the post for the Government Polytechnic. It is made clear that the petitioner has done her Under Graduation in Instrumentation and Control Engineering, Post Graduation in Computer Science and Engineering under faculty of Information and Communication Engineering and Ph.D. Under faculty of

Information and Communication Engineering with specialization in Information Retrieval.

25.It is made clear that the petitioner was selected as Head of the Department during February 2012 and thus being the case during that time, the circular No.4111/J4/2011, dated 04.06.2011 was in force. Therefore, the rejection order passed by the respondent for non approving the petitioner in the year 2013 is totally wrong, since the petitioner was completed 10 years experience as Senior Lecturer in the Instrumentation and Control Engineering Department.

26.When the G.O.Ms.No.563 and G.O.Ms.No.1081 was prescribed the qualification and experience and pursuant to that the petitioner was also given upgradation on 31.07.2009 and the Chief Secretary and the Directorate of Technical Education dated 22.12.2009 in Proceeding No.40057/rp3/2009 the petitioner's service has been upgraded and thereby she has been appointed as Head of the Department and the service has been regularized in the said date.

27.When the petitioner was fulfill the qualification of 10 years experience as Senior Lecturer in the Instrumentation and Control Engineering Department and also she completed M.E. and Ph.D. based on the permission granted by the Directorate of Technical Education, now the respondent cannot simply say that the petitioner has not fulfill the qualification of M.E. in the (Instrumentation and Control Engineering) and passed the present impugned order dated 05.09.2013.

28.The petitioner was properly selected through the Staff Selection Committee on 31.07.2009, when the petitioner was not qualified in M.E. (Instrumentation and Technology), why the respondent has appointed the petitioner as Senior Lecturer and also upgraded as Head of the Department on 31.07.2009, which was approved by the Chief Secretary and the Directorate of Technical Education on 22.12.2009, ordered to upgrade the petitioner's service as Head of the Department and regularized the service. When the petitioner was put in service from 31.07.2009 as Head of the Department, the respondent cannot simply say that she was not qualified in the year 2012 by order dated 17.12.2012 by stating that the petitioner was not qualified in M.E. (Instrumentation and Technology). Though the petitioner was put in 3 years of service as Head of the Department in Instrumentation and Technology Department, how the respondent made plea that she was not qualified. Apart from this, there is no proper explanation in respect of appointing the petitioner as Head of the Department of Instrumentation and Technology Department on 31.07.2009 which was subsequently approved and appointed by the Chief Secretary and Directorate of Technical

Education Department, dated 22.12.2009 in proceeding No.40057/C3/2009.

29.Admittedly, the G.O. referred by the respondent in G.O.Ms.No.111 dated 25.05.2010 which was passed only in the year 2010, whereas the petitioner was upgraded as the Head of the Department on 31.07.2009 itself since she had 10 years Teaching experience as Senior Lecturer. Therefore, this Court warranting interference in the orders passed by the respondent dated 05.09.2013 and the same is liable to be quashed.

30.In the result:

(a) the writ petition is allowed by setting aside the impugned order passed by the Respondent dated 17.12.2012 in foj vz; 8074/rp3/2012 and foj vz; 8074/rp3 dated 05.09.2013, are quashed;

(b) the respondent is directed to approve the petitioner's qualification for the Head of the Department as per the interview conducted on 10.02.2012 and approved the petitioner's selection as Head of the Department in the CIT Sandwich Polytechnic College from the date of qualification dated 10.02.2012 and pay back all the service and monetary benefits to the petitioner;

(c) the respondent is directed to complete the said exercise within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vs

To

The Commissioner,
Department of Technical Education,
Guindy, Chennai 600 025.

+1cc to Mr.S.A.Ganthi, Advocate, S.R.No.75149

W.P.No.29372 of 2013 and
M.P.No.1 of 2013 and
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AR V
CA(10/11/2017)