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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.08.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)Nos.925 & 1582 of 2016

B.Suresh ...Appellant in W.A.(MD)No.925 /2016

1.The Registrar,
Madurai Kamaraj University,
Palkalai Nagar,
Madurai. ct-625 021.

2.The Vice-Chancellor,
Madurai Kamaraj University,
Palkalai Nagar,
Madurai-625 021.

...Appellants in W.A.(MD)No. 1582/ 2016

/Vs./

1.A.Manoharan
2.The Registrar,
Madurai Kamajar University,
Palkalai Nagar,
Madurai-21.

3.The Vice-Chancellor,
Madurai Kamaraj University,
Palkalai Nagar,
Madurai-21.

...Respondents in W.A.(MD)No.925/2014



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1.A.Manoharan

2.B.Suresh

...Respondents in W.A.(MD)No.1582/2016

COMMON PRAYER:- Writ Appeals - filed under Clause 15 of Letters Patent Act, to set aside the order of this Court in W.P.(MD)No.3460 of 2011 dated 03.06.2014.

In W.A.(MD)No.925 of 2014:

For Appellant	: Mr.G.Prabhurajadurai
For R1	: Mr.M.Thirunavukkarasu
For R2 & R3	: Mr.M.Sricharan Rangarajan for Mr.T.Sakthi Kumaran

In W.A.(MD)No.1582 of 2016:

For Appellants	: Mr.M.Sricharan Rangarajan for Mr.T.Sakthi Kumaran
For R1	: Mr.M.Thirunavukkarasu
For R2	: Mr.G.Prabhurajadurai

COMMON JUDGMENT

(Judgment of the Court was delivered by **DR.ANITA SUMANTH , J.**)

A common order is passed in these two writ appeals. The fact as germane to decide the writ appeals are as follows. W.P.(MD)No.3460



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of 2011 had been filed by Dr.A.Manoharan (in short and henceforth referred to as 'writ petitioner') challenging an order appointing Dr.B.Suresh (in short 'appointee') to the post of University Librarian (in short 'UL') in Madurai Kamarajar University (in short 'MKU').

2.The writ petitioner was aggrieved with the selection of the appointee for the reason that the writ petitioner believed himself better qualified to be appointed to the post of UL in MKU. This was for the reason that he had experience as Assistant Professor in the department of Library and Sciences in Bishop Heber College, Trichy from 10.01.1986 to 27.07.2010.

3.The writ petitioner drew attention to the definition of the 'Teacher' in Section 2(m) of the Madurai Kamaraj University Act, 1965 to state that Teachers connoted *'Lecturers, Readers, Assistant Professor, Professor and other persons giving instructions in University Colleges or Laboratories in affiliated or approved colleges or in hostels and librarians as may be declared by the statutes to be teachers.'*



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4. Thus according to him, the post of Assistant Professor would be in pari materia with that of Librarian. His vast experience as Associate Professor for 24 years should be considered in preference to the experience brought to the table by the appellant. The appointee, for his part, possesses educational qualifications of 15 years as college Librarian and 3 years as a Lecturer in the Department of Library and Sciences in Annamalai University.

5. The University Grants Commission (Minimum Qualifications For Appointment of Teachers and other academic staff in Universities and colleges and other measures for the maintenance of standards in higher education) Regulations, 2010 (In short '2010 Regulations'), stipulated the qualifications for UL in the following terms:

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 points scale and consistently good academic record set out in these Regulations.

(ii) At least thirteen years as a Deputy Librarian in a university library or eighteen years' experience as a College Librarian.

(iii) Evidence of innovative library service and organization of published work.

(iv) Desirable: A.M.Phil/Ph.D. Degree in library science/information science/documentation/achieves and



manuscript-keeping.”

6.The Writ Court examined in detail the rival contentions of the parties. The preliminary objection raised in this writ appeal by the learned senior counsel appearing for the counsel on record for MKU is that the exercise engaged by the writ Court is itself contrary to what is expected under Article 226 of the Constitution in such cases.

7.The writ petitioner, if at all he believed himself eligible to the post of UL, ought to have restricted himself to making out his case for entitlement and it was incumbent upon the Court to have examined his credentials and eligibility alone. He argued that apparently, the writ petitioner was not entitled to the post of UL in light of the clear stipulation in the 2010 Regulations.

8.Perusal of the same would clearly reveal that the minimum requirement is of 13 years as Deputy Librarian in a University and 18 years as College Librarian. The writ petitioner did not possessed even a single year of experience as Librarian either at University or College level and thus, his case stands compromised at the very threshold.



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9.The writ court ought to have restricted itself to a consideration of this aspect of this matter alone and dismissed the same. Instead, the Court has proceeded to examine the credentials of the appointee, which was wholly unnecessary in the context of the prayer of the writ petitioner.

10.That apart, the reference to malafides or favoritism to justify judicial intervention is incorrect insofar as such allegations were wholly unsupported by any material. More relevantly, the persons constituting the scrutiny committee as against whom such allegations have been made, were not made parties to the writ petition. These submissions are well taken.

11.In the result, the writ court has set aside the entire selection and has directed MKU to commence the process, afresh, calling all eligible candidates for interview, if they are otherwise eligible, including the writ petitioner, and pass orders of selection within the time stipulated by the Court.



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12. Since it was only the writ petitioner and the appointee who were parties to the writ petition and no others, we feel there was no necessity to have expanded the scope of the litigation to disturb the entire selection process, particularly in view of the fact that the members of scrutiny committee were not even a party to the writ petition.

13. That apart, one aspect of the matter which weighs with us, is that the writ petitioner has attained the age of superannuation even prior to the dismissal of the writ petition. This fortifies our conclusion that the entire selection need not have been directed to be redone, since the writ petitioner was himself not entitled to the relief that was ultimately granted by the writ Court.

14. The appointee has been in the seat of UL since the date of appointment, which is 16.08.2010 and has continued in the post even subsequent to the order of the writ court for the reason that there has been an order of interim protection granted pending writ appeal. In fact, this Court has aided the appointee in gaining experience as UL by virtue of which, as on date, he would satisfy the eligibility criteria as the per



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UGC Regulations, 2010 (in short UGC Regulations, 2010), even though he did not, earlier.

15.A slew of decisions have been cited at the instance of the appointee to the effect that once a candidate has been holding a particular position for a reasonably long period, he should not be disturbed from that position at the conclusion of long pendency of litigation of several years before the Courts. [see *Tridip Kumar Dingal and others vs. State of West Bengal and others* [(2009) 1 SCC 768]

16. There is yet another aspect of the matter that commends itself to us. The University Grants Commission has issued Regulations on 18.07.2018, whereunder, the eligibility criteria for appointment of UL, have been recast as follows:

III. University Librarian:

- i) A Master's Degree in Library Science /Information Science/Documentation Science with at least 55% marks or an equivalent grade in a point-scale wherever the grading system is follows.*
- (ii) At least ten years as a Librarian at any level in University Library or ten years of teaching as Assistant/Associate Professor in Library Science or ten years' experience as a College Librarian.*
- iii) Evidence of innovative library services, including the*



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integration of ICT in a library.

iv) *A Ph.D. Degree in library science/information science/documentation/archives and manuscript-keeping.*

17. On a comparison of the 2018 Regulations and the 2010 Regulations, we find that while the former prescribe qualification of 10 years as Librarian in University library *or* 10 years of teaching as Assistant /Associate Professor in Library Sciences. Thus parity has been brought about between teaching of Library Sciences and working as a Librarian. Both posts have achieved parity in terms of pay and other benefits and academic and practical aspects of the science have finally merged.

18. Though the impugned appointment has undoubtedly to be tested in light of the Regulations that existed at that point in time, we cannot completely ignore the evolution of the requirements over the years, as seen from a comparison of the 2010 and 2018 Regulations. That said, we do not intend to disturb the appointment of the appointee, who shall continue in service.



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costs.

19. These Writ Appeals stand disposed in light of this order. No

[A.S.M.J.] & [R.V.J.]
23.08.2023

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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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