

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WVMP.No.3960 of 2012 in WPMP.No.2747 of 2012

in

W.P.No.2206 of 2012

and

W.P.No.2206 of 2012

ORDER:

This Writ Petition is filed assailing proceedings DU/Estt/E2/426/2010 dt.27.01.2012 of the 2nd respondent-University setting aside petitioner's appointment as Dy. Director (Publications) made on 01.10.2010.

2. The petitioner possessed Post Graduation in Telugu from S.V. University, Diploma in Linguistics as well as Ph.D. in Telugu from the said University. She worked as lecturer in Vivekananda Degree College, Nellore from 09.06.1996 to 18.04.2003 (6 years 7 months), as Lecturer in Sri Venkateswara Degree College, Nellore from 19.04.2003 to 12.02.2009 (5 years 10 months) and as Assistant Professor, Dravidian University, Kuppam from 03.04.2009 till she attended the interview for the post of Dy. Director (Publications) on 27.09.2010.

3. The 2nd respondent-University is constituted and established under the Dravidian University Act, 1997.

4. A recruitment notification No.DU/Estt.(T)/E-2/841/2010 dt.30.06.2010 was issued by the 2nd respondent-University inviting applications for the post of Dy. Director (Publications). For this post, the following qualifications were prescribed :

“a. P.G. with at least with 55% marks in any Dravidian Language / English /Linguistics.

b. Good academic record with a Ph.D. Degree in the concerned / allied / relevant disciplines.

c. A minimum of 5 years experience of teaching and / or Research in an Academic / research position equivalent to that of Asst. Director / Asst. Professor in a University / College or accredited Research Institution / Industry excluding the period of Ph.D. Research with evidence of published work and a minimum of 5 publications as Books and / or Research / Policy Papers in indexed ISBN / ISSN numbered books / Journals & University Development ISBN / ISSN / List of Journals posted in the website of the concerned University.

d. Contribution to educational innovation / design of new curriculae and courses and technology mediated teaching learning process with evidence of having guided for research students.

e. A minimum score of Academic Performance Indicator (API)."

5. The petitioner applied for the said post. She was examined by a selection committee on 26.09.2010 and was selected. The selection of the petitioner was also approved by the Executive Council of the 2nd respondent - University and she was appointed to the said post on 01.10.2010.

6. It appears that a Two-Men Committee was constituted by the Government to enquire into certain appointments made in the 2nd respondent-University vide G.O.Rt.No.876, HE (UE-I) Department dt.12.11.2010.

7. The said Committee submitted a report to the State Government and the latter called for remarks from the 2nd respondent-University on 14.12.2010. In the said report, the Two-Men Committee opined that petitioner's appointment was not as per eligibility criteria laid down in the notification and that she did not possess experience of 5 years equivalent to

Assistant Professor and other essential qualifications and she was not eligible to be called for interview for the post of Dy. Director (Publications).

8. The 2nd respondent-University submitted its remarks on 12.01.2011 to the Government specifically stating that the petitioner did possess all the prescribed qualifications for the said post.

9. However, the Executive Council of the 2nd respondent met on 30.03.2011 and strangely resolved to agree with the report of the Two-Men Committee and directed the 2nd respondent to take action.

10. On 08.04.2011, a show-cause notice was issued to the petitioner to show-cause why her appointment should not be cancelled since the Two-Men Committee constituted by the Government vide G.O.Rt.No.876 H.E.(UE-I) Department dt.12.11.2010 opined that the petitioner was not eligible to be called for interview to the said post of Dy. Director (Publications) and directed her to submit her explanation.

11. The petitioner then filed WP.No.13340 of 2011 before this Court assailing the same and sought a direction to the respondents to forebear from canceling her appointment. This Court disposed of the Writ Petition on 29.04.2011 holding that petitioner's case should be considered independently by the Executive Council of the University as per applicable regulations uninfluenced by the fact-finding recommendations of the Two-Men Committee.

12. Thereafter, petitioner submitted her explanation to the Registrar of the 1st respondent-University on 16.05.2011 contending that she is eligible to be appointed for the post of Dy. Director (Publications) and as she fulfilled all

the criteria prescribed as per the recruitment notification, her appointment cannot be set aside.

13. Thereupon, the Executive Council of the 2nd respondent-University met on 07.01.2012 and passed the following order :

“The Executive Council examined the requirements for the post of Deputy Director (Publications) as given in the Notification No.DU/Estt./E-1/129/2010-5, dt.22.06.2010 and also the petition submitted by the individual. Since the individual was not having 5 years continuous service on the date of interview and not having publications of 5 books with high quality and the certificates produced by her do not establish whether she handled PG classes or UG classes, and her scale of pay is not available in the service certificate. The documents submitted by the candidate do not match the prescribed qualifications in the Notification issued by the Dravidian University. Hence it is resolved to cancel her appointment to the post of Deputy Director (Publications).”

14. Thereupon, the Registrar of the 2nd respondent-University communicated the decision of the Executive Council in his proceedings No.DU/Estt/E2/426/2010 dt.27.01.2012 and stated that in view of the said decision, the selection and consequent appointment of the petitioner is set aside.

15. Assailing the same, this Writ Petition is filed.

16. The petitioner contended that the full Executive Council of the 2nd respondent-University did not consider petitioner’s explanation to the show-cause notice, that only four members of the Executive Council attended the said meeting and this vitiates the decision of the Executive Council.

17. The petitioner further contended that the once the 2nd respondent-University itself informed the State Government in its remarks on 12.01.2011 that the petitioner is fully qualified and satisfies all the essential

qualifications prescribed for the post of Dy. Director (Publications), the impugned order taking a diametrically opposite stand, cannot be sustained and that it shows non-application of mind by the 2nd respondent-University.

18. On 30.01.2012, this Court suspended the impugned order dt.27.01.2012 pending disposal of the Writ Petition and directing the respondents to continue the petitioner in service until further orders observing that as per qualifications indicated in the notification, petitioner possessed the requisite qualifications.

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19. WVMP.No.3960 of 2012 is filed by the 2nd respondent-University to vacate the said order. In the counter-affidavit / vacate stay petition, the respondents reiterate that the petitioner is not eligible for the post of Dy. Director (Publications) and that petitioner did not have 5 years of continuous service, that she did not publish 5 books with high quality, that certificates produced by her do not establish whether she handled Post Graduate or Under-Graduate classes as Lecturer and her certificates do not show her scale of pay. It is further contended that notwithstanding the fact that only four members of the Executive Council participated in the decision-making process, there is adequate quorum and therefore the decision of the Executive Council is unassailable.

20. In the reply-affidavit, these contentions were refuted by the petitioner. It is pointed out that the Two-Men Committee merely stated that petitioner did not possess 5 year experience equivalent to Assistant Professor and nothing more, but the respondent has raised new criteria which are not

mentioned in the recruitment notification. When the notification mentions only 5 years teaching experience and the petitioner's certificates show that she fulfills the same, the respondents cannot contend that she did not have the experience. It is stated that the notification mentions that a candidate should have 5 publications / research papers / policy papers / journals and that the petitioner has published two books, nine research articles and three seminar papers, far more than what was required.

21. Heard Sri S. Sri Ram Reddy, Advocate for Sri C. Sumon, counsel for the Writ Petitioner and Sri R.V. Mallikarjun Rao, counsel for Sri B. Parameswara Rao, counsel for respondents.

22. The counsel supported the stand of their respective clients.

23. It is admitted by the respondents' counsel that the full Executive Council of the 1st respondent-University consists of 12 members. Admittedly only four members of the said Executive Council participated in the decision taken on 07.01.2012 to set aside petitioner's appointment even though this Court in its order dt.29.04.2011 directed the Executive Council (obviously the full Council) to take a decision in the matter. Therefore, the decision taken on 07.01.2012 by the four-Member Executive Council of the 1st respondent-University to set aside petitioner's selection made on 01.10.2010 is invalid.

24. As regards the question whether the petitioner fulfills all the prescribed criteria in the recruitment notification, since the 2nd respondent – University itself informed on 12.01.2011 to the Government that the petitioner fulfills the same, the Executive Council of the 2nd respondent is

estopped from now contending to the contra. Nowhere in the counter-affidavit, the respondents denied that they themselves informed the Government on 12.01.2011 that the petitioner is fully qualified to hold the post of Dy. Director (Publications). That apart, the teaching experience of the petitioner is clearly above 5 years and she has more than the required 5 publications prescribed in the recruitment notification.

25. Accordingly, the Writ Petition is allowed and the impugned order dt.27.01.2012 passed by the 2nd respondent is set aside, and the respondents are directed to continue the petitioner as Dy. Director (Publications) in terms of the order of appointment dt.01.10.2010. Consequently, WVMP.No.3960 of 2012 is dismissed. No costs.

26. As a sequel, miscellaneous applications pending if any, in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 18.07.2017

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