

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 09.03.2018
CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
WA.No.533/2018 & CMP.Nos.5063 & 5064/2018

P.Vinu Prasad

..

Appellant/Writ
Petitioner

vs.

1.The Secretary
Law Department
The Secretariat, Fort St George
Kamarajar Salai, Chennai 600 003.

2.The Director of Legal Studies
Directorate of Legal Studies
Purasaiwalkkam High Road,
Chennai.

3.The Chairman
Teachers Recruitment Board
4th Floor, EVK Sampath Maligai
DPI Compound, College Road
Chennai 600 006.

4.The Secretary
Education Department
The Secretariat, Fort St George
Kamarajar Salai, Chennai 600 003.

5.The Secretary
Bar Council of Tamil Nadu
NSC Bose Road, Chennai 600 104.

6.The Secretary
University Grants Commission,
Bhadur Shah Zafar Marg,
New Delhi 110002.

7.The Tamil Nadu Dr.Ambedkar Law University,
Rep by its Registrar
"Poompozhi", Greenways Road
Adayar, Chennai 600 028.

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the final order passed in WP.No.33145/2017 dated 21.12.2017.

WP.No.33145/2017:Writ Petition filed under article 226 of the Constitution of India praying this court for the issuance of writ of Certiorarified Mandamus to call for the records in the Government Orders prescribing adhoc rules for appointment of pre-law teachers in Law Colleges in Rule4 Sub-rules b(ii) and (iii) of G.O. Ms.No.1349 Education dated 19.11.1985 issued by the 4th respondent and as amended by G.O. Ms.No.264 Law Department dated 20.12.2005 as Rule 4 Sub-rule b(ii) and (iv) issued by the 1st respondent and quash the same as obsolete arbitrary and unjustifiable and further direct the 1st 2nd and 3rd respondents to follow the Bar Council of India Rules of Legal Education 2008 and UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education 2010 for the future recruitments for the post of Assistant professors(pre-law) in the Government Law Colleges in the state of Tamil Nadu.

For Appellant : Mr.A.Thiyagarajan, SC for
Ms.A.Vinu Pradha
For RR 1 to 4 : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

JUDGMENT

[Judgment of the Court was delivered by C.T.SELVAM, J., Present Intra-Court Appeal has been filed by appellant/writ petitioner in writ petition, against order made in WP.No.33145/2017 dated 21.12.2017.

2 Writ petitioner, Guest Lecturer in Dr.Ambedkar Government Law College, teaching Sociology, filed WP.No.33145/2017 challenging two Government Orders passed way back in the year 1985 and 2005, viz., G.O.Ms.No.1349, Education Department dated 19.11.1985 and amended G.O.Ms.No.264, Law Department dated 20.12.2005, prescribing higher qualification for the post of Assistant Professor in Pre-law subject, with a prayer to quash the same with a further prayer seeking direction to respondents 1 to 3 therein to follow UGC Norms and Bar Council of India Rules for the future recruitment of Assistant Professor [Pre-Law] in the Government Law Colleges in Tamil Nadu. Learned Single Judge of this Court under order dated 21.12.2017, dismissed the writ petition. Aggrieved over the same, the present writ appeal is filed.

3 Heard Mr.S.Thiyagarajan, learned Senior Counsel appearing on behalf of Ms.Vinu Pradha, learned counsel for

appellant on record and Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader accepting notice for respondents 1 to 4 and perused the typed set of documents.

4 It is relevant to extract paragraphs No.4 and 5 of the order impugned herein:-

"4 But, this Court is unable to entertain the writ petition. The reason is that the 4th respondent had already issued the G.O.Ms.No.1349 Education dated 19.11.1985 and yet another amended G.O.Ms.No.264 Law Department dated 20.12.2005 was also issued by the 1st respondent long time ago. On the basis of these Government orders, when the recruitments have been done to the post of Assistant Professor in pre-law subject fixing of course a higher qualification than the one fixed by the UGC and Bar Council of India, the petitioner cannot have any grievance. Only in case wherein an effort to belittle or deteriorate the quality of education, if the 1st / 4th respondent had issued any Government Order lowering the qualification as against the norms or educational qualifications fixed by the UGC or the Bar Council of India, it may be a ground for the petitioner to come to this Court citing that the 1st / 4th respondent cannot fix a lesser qualification that spoil the standard of education to the students. But in the present case, when the 1st/ 4th respondent has taken a decision to improve the quality and the standard of education to be imparted to the students in pre-law course, I do not find any justification or any merit in the contentions made by the petitioner. Moreover, while entertaining a similar issue in WP.No.32405/2017, by order dated 13.12.2017, I have also held that the State Government is entitled to fix higher qualification than the norms prescribed by the UGC. The relevant portion of the said order read as follows:-

"4 This Court is not able to find any merit in the said submission of the learned counsel for the petitioner for the reason tht the TNPSC, in order to improve the quality of education, has fixed the higher qualification than the one fixed by the UGC, therefore, in my view, the contention of the petitioner that the TNPSC has prescribed the qualification higher than the one fixed by the UGC

cannot be entertained. In all matters, it is not necessary that the State Government is bound to follow the Education Qualification mentioned by the University Grants Commission. It is open to them to fix higher qualification than the criteria fixed by the UGC Norms. In the present case, the stand taken by the petitioner that the impugned Notification issued by the Tamil Nadu Public Service Commission insisting upon all the eligible candidates should have good academic record shall be deleted as it is against the norms of the University Grants Commission, is wholly misconceived.

5 In the result, the writ petition fails and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petitions are also closed."

5 In view of the above, there is nothing wrong in fixing a higher qualification for recruitment to the post of Assistant Professor [pre-law] than the one prescribed by the UGC and the Bar Council of India pertaining to the Rules of Legal Education, in this case. Moreover, the impugned G.O.Ms.No.1349, Education dated 19.11.1985 has been in vogue for more than three decades. Again G.O.ms.No.264, dated 20.12.2005 also has been followed for the last 12 years. When the respondent - Law University has been the Government Orders for several decades, the belated prayer in the present writ petition is wholly unsustainable. Further, this Court is not inclined to unsettle what was settled in the last three decades. Therefore, due to long passage of time, the writ petition is not legally maintainable. On this score also, the prayer fails. Accordingly, the writ petition is dismissed. Consequently, WMP.No.36456 & 36547/2017 are also dismissed. No costs."

4 Learned Senior Counsel for appellant/writ petitioner sought for intervention of this Court on the ground that the norms of UGC and the Rules of Bar Council of India, in prescribing qualification for appointment for the post of Assistant Professor [pre-law], have been followed by

Universities across the Country, the requisite qualification in respect of Assistant Professor [pre-law] in the State of Tamil Nadu is higher as the Government follows the qualification prescribed in G.O.Ms.No.1349 dated 19.11.1985 and G.O.Ms.No.24 dated 20.12.2005. Perusal of said Government Orders indicate the same to be policy decisions and obviously intended to afford students a higher quality of teaching. Further, as rightly held by learned Single Judge, G.O.Ms.No.264, Law Department, dated 20.12.2005 has been in vogue over the past 12 years. It is rather late in the day to challenge the same. Writ Appeal has no merits.

5 Accordingly, writ appeal stands dismissed, confirming the order passed in WP.No.33145/2017 dated 21.12.2017. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

AP
To

1.The Secretary
Law Department
The Secretariat, Fort St George
Kamarajar Salai, Chennai 600 003.

2.The Director of Legal Studies
Directorate of Legal Studies
Purasaiwalkkam High Road,
Chennai.

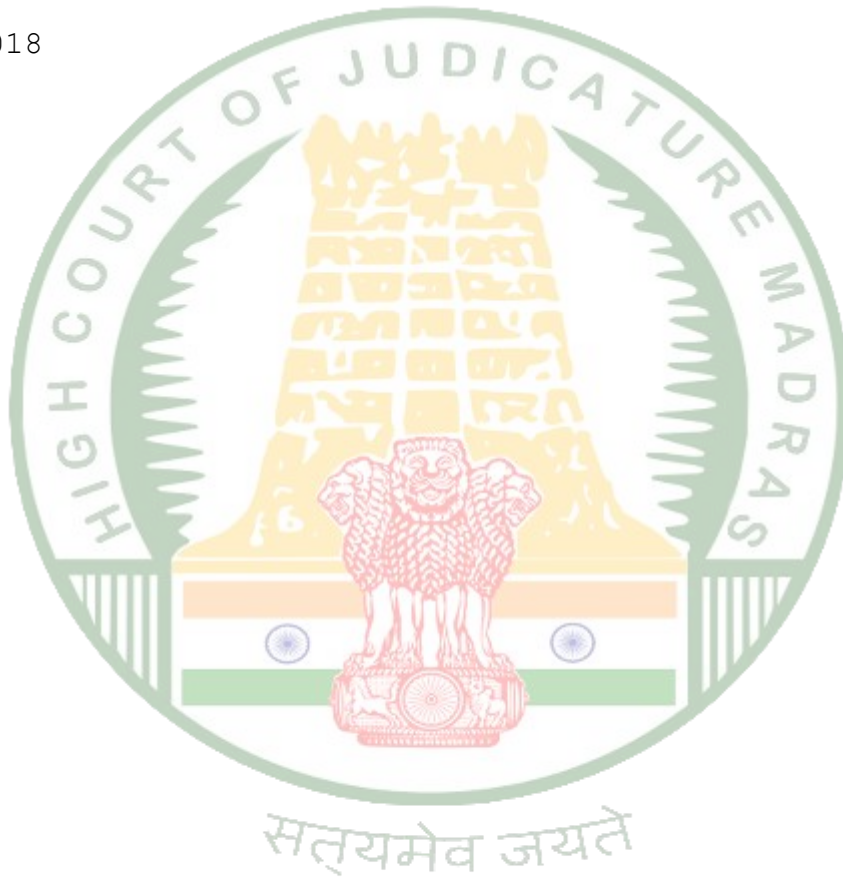
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+1 cc to M/s.A.Vinu Pradha Advocate sr 17985
+1 cc to the Govt pleader High Court, Madras
sr 18809
+1 cc to Mr.P.R.Gopinathan Advocate sr 17957

WA.No.533/2018

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