



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2017

CORAM

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

W.P.(MD) No.9284 of 2017

and W.M.P.(MD) Nos.7055 and 7056 of 2017

Dr.A.Ravichandran

.. Petitioner

vs

The Tamil University,
rep. by its Registrar,
Thanjavur.

.. Respondent

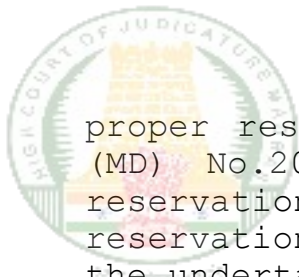
Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records pertaining to the impugned notifications dated 27.4.2017 issued by the respondent in Daily Thanthi dated 29.4.2017, quash the same, in so far as not notifying the remaining two vacancies in the cadre of Associate Professor in the Department of Literature and not allotting the same to the SC/ST candidates in backlog vacancy and roster vacancy and in so far as notifying one vacancy only for general category and consequently direct the respondent University to notify two vacancies for SC/ST candidates in the cadre of Associate Professor one in backlog vacancy and the other in roster vacancy and to fill up the same in accordance with the rules, after receiving and considering the application of the petitioner for appointment to any one of those two posts to be allotted for SC/ST candidates, by giving him preference based on his service with the respondent University.

For Petitioner	: Mr.Ajay Khose
For Respondent	: Mr.T.Sakthikumaran

ORDER

This writ petition has been filed by the petitioner calling into question the notification dated 27.4.2017, published in Daily Thanthi dated 29.4.2017, and for a direction to the respondent University to notify two vacancies for SC/ST candidates in the cadre of Associate Professor - one in backlog vacancy and the other in roster vacancy and further to consider the petitioner for appointment to anyone of the two posts to be allotted for SC/ST candidates by giving him preference based on his service with the respondent University.

2. The case of the petitioner is that he belongs to Scheduled Caste community. On 15.10.2007, the petitioner was appointed as Assistant Professor in the Department of Literature in respondent University by direct recruitment. On 12.8.2013 and 19.11.2013, the respondent University issued notifications for appointment to the posts in the cadre of Professor and Associate Professor in various departments. Since the said advertisements do not provide for



proper reservation to SC/ST candidates, one M.Murugesan filed W.P. (MD) No.20154 of 2013 to quash the advertisement and to give reservation for SC/ST people in accordance with the rules of reservation. The said writ petition was disposed of by recording the undertaking given by the respondent University.

WEB COPY

3. According to the petitioner, the respondent University issued a fresh advertisement on 4.1.2016 for filling up of 21 posts of Professors and 9 posts of Associate Professors. Since the advertisement dated 4.1.2016 does not provide for reservation, the writ petitioner in W.P.(MD) No.20154 of 2013 filed Contempt Petition, being Contempt Petition (MD) No.77 of 2016.

4. By an order dated 5.6.2017, this Court directed the respondent University to fill up vacancies strictly in accordance with the undertaking given by them and also in terms of the report of the Reservation Committee as accepted by the Syndicate and to issue separate notifications exclusively for SC/ST candidates in respect of backlog vacancies and the normal vacancies before the end of April 2017.

5. Pursuant to the order of this Court, the respondent University issued three separate notifications dated 27.4.2017, wherein the respondent University was proposing to fill up totally 43 posts, i.e., 25 posts in the cadre of Professor and 18 posts in the cadre of Associate Professor respectively. In the notification pertaining to the posts allotted for SC/ST candidates, the respondent University has allotted 5 posts in the cadre of Professor and 8 posts in the cadre of Associate Professor. Out of 5 posts in the cadre of Professor, 3 posts have been allotted in backlog vacancies and the remaining 2 posts have been allotted in roster/current vacancies. Similarly, out of 8 posts in the cadre of Associate Professors, 4 posts have been allotted in backlog vacancies and the remaining 4 posts have been allotted in roster/current vacancies.

6. According to the petitioner, in so far as the two backlog vacancies in the cadre of Professor are concerned, the same have been allotted to the SC/ST candidates in the Department of Philosophy and in the Department of Linguistics. However, out of three vacancies allotted in roster/current vacancies in the cadre of Professor, only one vacancy in the Department of Literature was allotted for SC/ST candidates. The remaining two roster/current vacancies have been allotted for SC/ST candidates, in the Departments of Music and Siddha.

7. According to the petitioner, the two departments viz., Music and Siddha, have only one single and solitary post of Professor. Therefore, the rules of reservation are not applicable to single/solitary post. Hence, the reservation given for SC/ST candidates in the departments of Music and Siddha cannot be taken as reservation provided for SC/ST candidates.



8. Out of total 18 posts in the cadre of Associate Professors, 8 posts have been allotted to SC/ST candidates and the remaining 10 posts have been allotted to other categories. Out of 8 posts allotted to SC/ST, 4 posts have been allotted in backlog vacancies and the remaining 4 posts have been allotted to the roster/current vacancies. According to the petitioner, one post allotted for SC/ST candidate in the cadre of Associate Professor in the School of Indian Languages will not amount to giving, allotting and reserving one post for SC/ST candidates.

9. The grievance of the petitioner is that one post of Associate Professor ought to have been allotted for SC/ST candidates in the backlog vacancies and one post of Associate Professor ought to have been allotted for SC/ST candidates in the roster/current vacancies in the Department of Literature. But in the impugned notification, the respondent University has notified only one vacancy and it has allotted under general category.

10. Per contra, the case of the respondent University is that the petitioner has no *locus standi* to challenge the impugned notification, as he has not applied for the post of Associate Professor (Literature) notified in the impugned notification. According to the respondent University, out of three sanctioned posts of Associate Professor (Literature) under 200 roster point system, first post goes to General Turn and the second post reserved for SC/ST in which the petitioner was working (Assistant Professor) and the third post was reserved for MBC/DNC, which according to the respondent University, has not been notified since there was no necessity for more manpower in the department of Literature. Therefore, there is no provision to allot one more post of Associate Professor to SC/ST candidate in Literature department. Hence, the vacant post of Associate Professor in the Department of Literature cannot be allotted to the SC/ST community.

11. I heard Mr. Ajoy Khose, learned counsel for the petitioner and Mr. T. Sakthikumaran, learned counsel for the respondent and also perused the materials available on record.

12. It appears that as per the recommendation of the Reservation Committee, one vacancy i.e., current/roster vacancy in the cadre of Associate Professor, will have to be filled in the Department of Linguistics and one current/roster vacancy in the cadre of Associate Professor will have to be filled in the Department of Literature. Since Linguistics and Literature departments have three posts each in the cadre of Associate Professor, one vacancy in each department will have to be earmarked for SC/ST candidates under the backlog vacancies.

13. According to the petitioner, three posts in the cadre of Associate Professors in the Department of Literature are vacant. But



the respondent University, in the impugned notification, notified only one vacancy under the General category and it has not notified one backlog vacancy and one current/roster vacancy for SC/ST candidates as per the report of the Reservation Committee.

14. On the contrary, the plea of the respondent University is that out of three sanctioned posts, one post of Associate Professor was filled up by the petitioner, who is a SC candidate, while he was appointed as Assistant Professor and two vacancies are remaining in the cadre of Associate Professor in the same Department, of which, one vacancy was notified under General Turn and another was not notified, in view of sufficiency of manpower in the Department of Literature.

15. It is to be noted that the Reservation Committee in its report dated 28.10.2015 has stated that three posts are vacant in the cadre of Associate Professor in the Department of Literature. Therefore, the stand of the respondent that as on the date of the notification, only two posts in the cadre of Associate Professor were vacant does not merit acceptance.

16. The grievance of the petitioner is that out of three vacancies, the respondent University ought to have allotted two vacancies to SC/ST candidates i.e., one under backlog vacancy and another under roster/current vacancy.

17. Admittedly, the respondent University has not produced any record to show that the petitioner's appointment was made in the cadre of Assistant Professor as on the date of appointment in the cadre of Associate Professor.

18. When the Reservation Committee has stated that one roster vacancy in the post of Associate Professor shall be allotted for SC/ST candidate in the Department of Literature, which was also accepted by the Syndicate of the respondent University, the respondent University cannot deviate and/or take a stand which runs counter to their own decision.

19. The respondent University cannot contend that the petitioner has no *locus standi* to question the impugned notification, as the vacancy position was not correctly notified for SC/ST candidates by the respondent University and the petitioner's right was affected by the impugned notification. Further, since the personal right of the petitioner to get appointment in the vacancies allotted for SC/ST candidates was affected, he has filed the writ petition and it cannot be contended by the respondent University that only public interest litigation alone will lie.

20. Notifying/allotting one vacancy qua the General category without filling up of one backlog vacancy for SC/ST and one current vacancy for SC/ST in the Department of Literature is against the recommendation of the Reservation Committee.



21. As stated supra, the respondent University has failed to show any materials that the appointment of the petitioner in the post of Assistant Professor was in the post of Associate Professor in SC/ST vacancy. Therefore, it cannot be presumed that the appointment of the petitioner in the post of Assistant Professor is an appointment in the post of Associate Professor in SC/ST vacancy, since the petitioner belongs to Scheduled Caste community. The respondent University cannot go back and find fault with the reports of the Reservation Committee. Therefore, the impugned notification in so far as not notifying two vacancies in the cadre of Associate Professor in the Department of Literature and particularly, not allotting the same to the SC/ST candidates in the backlog vacancy and roster vacancy is not in accordance with the report of the Reservation Committees and the same is liable to be quashed.

22. Thus, as rightly argued by the learned counsel appearing for the petitioner, two posts in the cadre of Associate Professor in Linguistics and Literature departments shall have to be allotted for SC/ST candidates i.e., one under backlog vacancy and another under the roster/current vacancy.

23. In the result, the writ petition is allowed and the impugned notification dated 27.4.2017 issued by the respondent University, is quashed insofar as not notifying the two vacancies in the cadre of Associate Professor in the Department of Literature and also not allotting the same to SC/ST candidates in the backlog vacancy and roster vacancy. The respondent University is directed to notify two vacancies for SC/ST candidates in the cadre of Associate Professor i.e., one in backlog vacancy and the other in roster vacancy, and fill up the same in accordance with the Rules. Till such time, the respondent University is restrained from filling up the vacancies without compliance of the aforesaid direction. No costs. Consequently, W.M.P.(MD) Nos.7055 and 7056 of 2017 are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Registrar,
Tamil University,
Thanjavur.

+1cc to Mr.T.Sakthikumaran, Advocate, SR.No.58651

+1cc to Mr.Ajay Khose, Advocate, SR.No.58925

order made in
W.P.(MD) No.9284 of 2017
and

WMP (MD) Nos.7055 and 7056 of 2017
06.06.2017