



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2018

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THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P (MD) No. 5938 of 2011

and

M.P (MD) No. 2 of 2011

and

M.P (MD) No. 1 of 2013

S. Jayapal

... Petitioner

Vs

1. The Chairman,
University Grants Commission (UGC),
Bahadur Shah Zafar Marg,
New Delhi-110 002.
2. The Chairman,
All India Council for Technical Education,
7th Floor, Chanderlok Building,
Janpath, New Delhi-110 001.
3. The Registrar,
Gandhigram Rural Institute-
Deemed University,
Gandhigram-624 302,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned notification of the third respondent in Advt.No.1/Estt.2/2010-11, dated 04.02.2011, and quash the same with regard to the post of Assistant Professor (OBC) for the Khadi and Handloom Technology and consequently direct the third respondent to promote the petitioner to the post of Assistant Professor (OBC) for the Khadi and Handloom Technology in the third respondent institution.

For Petitioner : Mr. R. Rajaraman

For R1 & R2 : Mr. B. Vijay Karthikeyan

For R3 : Mr. R. Nandakumar

ORDER

The notification issued by the third respondent in Advt. No.1/Estt.2/2010-11, dated 04.02.2011 is sought to be quashed in respect of the post of Assistant Professor (OBC) for the Khadi and Handloom Technology. Further, direction is sought for to direct



the third respondent to promote the petitioner to the post of Assistant Professor (OBC) for the Khadi and Handloom Technology in the third respondent/institution.

2. The learned counsel appearing for the petitioner strenuously contended that the writ petitioner has passed Diploma in Handloom Technology in Indian Institute of Handloom Technology, Ministry of Textiles (Government of India) in the year 1987 with 73% of marks. Further, the petitioner has completed A.M.I.E (which is equivalent to B.Tech.,) Textiles Engineering in the Institute of Engineers (India), Kolkatta in the year 2007 with 56.4% of marks and thereafter passed M.B.A., in Textile Management in Anna University of Technology, Coimbatore in the year 2010 with 70% of marks. The petitioner is working as an Instructor in the third respondent institution for more than 22 years in the administrative side. He was working as Deputy Superintendent from 27.10.2009 to 13.11.2009 for conducting university examinations. Further, the petitioner claims that he is the Life Member of Indian Society for Technical Education, Associate Member of the Institute of Engineers, Life Member of Board of studies of Khadi and Handloom Technology, Gandhigram Rural Institute, Dindigul.

3. The grievance of the writ petitioner is that the respondents issued a notification inviting applications from the Indian National in the prescribed form for various posts in the Institution. The petitioner is mainly aspiring for the post of Assistant Professor in Khadi and Handloom Technology, which was notified in Serial No.8 of the notification, dated 04.02.2011.

4. The learned counsel for the writ petitioner made a submission that a training Course being conducted by the third respondent/Institution is of a diploma level, therefore, the prescription of PG qualification is irregular. In support of this, the learned counsel for the petitioner states that All India Council has prescribed qualification for the teaching staff to be appointed in diploma level institution. However, the third respondent has violated all such norms and issued notification prescribing higher qualification and therefore, the writ petitioner is unable to participate in the selection process for the recruitment to the post of Assistant Professor of Khadi and Handloom Technology.

5. The learned counsel for the petitioner made a reference in respect of the G.O.Ms.No.108. However, Government Order is not enclosed in the typed set of papers filed in this writ petition. In the absence of enclosing the Government Order, the learned counsel is not supposed to rely upon. Any counsel willing to rely upon the Government Order or otherwise, has to file the same by <https://hsevises.courtstgindia.com> of papers along with the writ petition. In the absence of any such document filed along with the writ petition, this Court cannot consider the same.



6. Now, let us look into the notification made in this writ petition. The said notification is enclosed in Page 117 of the typed-set of papers filed along with this writ petition. The notification was issued inviting application from the Indian Nationals in the prescribed application form for various posts. At the out-set, the notification was issued inviting the applications from the Indian Nationals throughout. Further, the post of Assistant Professor in Khadi and Handloom Technology is notified in Serial No.8 and one post of OBC is notified for the purpose of selection. The notification categorically enumerates that " The advertisement is based on the UGC Regulations 2010, dated 30.06.2010 posted on UGC website www.ugc.ac.in which insists production of Academic Performance Indicator (API) of PBAS and weightage points at the time of interview. The Qualifications and other conditions prescribed in the advertisement are subject to UGC regulations/norms to be notified by the MHRD/UGC from time to time."

7. It is unambiguously stated in the notification that the post of Assistant Professor is to be filled up as per the UGC regulations and the minimum educational qualification prescribed by the UGC are to be followed scrupulously and there cannot be any deviation. Now, the appointment on teaching staff in the College level education are prescribed through UGC regulations and all the Institutions are bound to follow the same. Therefore, there is no illegality in respect of the notification published by the third respondent inviting applications.

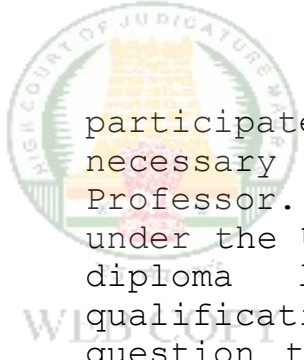
8. The qualification for the post of Assistant Professor (Engineering and Technology) Discipline is stated in the notification and the same reads as under:-

"i. Essential : First Class Master's Degree in the appropriate branch of Engineering (Engg.) & Technology (Tech).

ii. Without prejudice to the above, the following conditions may be considered desirable:

- 1. Teaching, research industrial and / or professional experience in a reputed organization;*
- 2. Papers presented at Conferences and/or in refereed journals."*

9. On a perusal of the notification, this Court is of an opinion that the respondents have issued the notification in accordance with the UGC regulations and the minimum educational qualification prescribed under the UGC regulations are also followed. The writ petitioner admittedly is not possessing the qualification as prescribed in the main notification. Therefore, he may not be eligible even to participate in the selection process. If at all, the petitioner intends to



participate, then it is necessary that he should acquire the necessary qualification as prescribed for the post of Assistant Professor. By challenging the notification, as it was issued under the UGC regulation, the petitioner cannot plead that it is a diploma level institution and therefore, the PG level qualification is unnecessary. The petitioner has no right to question the minimum educational qualification prescribed as per the UGC regulations. No further, adjudication needs to be entertained in respect of other grounds raised in this writ petition. It is for the writ petitioner to secure all necessary qualification for recruitment to the post of Assistant Professor as per the UGC regulation and only by participating in the open competitive process, he can be selected for appointment. This apart during the pendency of the writ petition, the selection process was completed and some candidates, who were selected, were appointed.

10. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Chairman,
University Grants Commission (UGC),
Bahadur Shah Zafar Marg,
New Delhi-110 002.
2. The Chairman,
All India Council for Technical Education,
7th Floor, Chanderlok Building,
Janpath, New Delhi-110 001.

+1cc to Mr.B.Vijay Karthikeyan, Advocate Sr.No.45883

AM

VB/KKR/SAR4/13.02.2018/4P/4C

W.P (MD) No. 5938 of 2011
31.01.2018