

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.12552 of 2010

R.Issac Manuel

.. Petitioner

Vs.

1. The Registrar,
Tamil Nadu Agricultural University,
Coimbatore - 641 003.

2. The Vice Chancellor,
Tamil Nadu Agricultural University,
Coimbatore - 641 003.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, for a Writ of Certiorarified Mandamus, calling for the records relating to the order of the first respondent herein in proceedings dated 05.06.2010 in No.R3/1011/2008 and quash the same and direct the respondents to reinstate the petitioner in service from 05.05.2010 with all consequential financial and service benefits.

For Petitioner : Mr.R.Parthiban

For Respondents : Mr.Abdul Saleem

सत्यमेव जयते
O R D E R

This writ petition is for a Certiorarified Mandamus, calling for the records relating to the order of the Registrar, Tamil Nadu Agricultural University, in proceedings dated 05.06.2010 in No.R3/1011/2008 and to direct the respondents to reinstate the petitioner in service from 05.05.2010 with all consequential financial and service benefits.

2. The petitioner is a in B.Sc., Agriculture, from Annamalai University. He is also M.Sc., in Agronomy from Annamalai University. Agronomy was the optional subject. The petitioner cleared the National Eligibility Test (NET) conducted by the Agricultural Scientist Recruitment Board, (ICAR), New Delhi, in Agronomy. Later the petitioner got his Ph.D., in Agronomy from Annamalai University in January 2005.

3. Tamil Nadu Agricultural University issued an advertisement No.R3/1/2008 inviting applications for the post of Asst.Professor in the faculty of Agriculture, horticulture, Agricultural engineering, Home Science, Forestry and other allied Sciences.

4. The petitioner states that he is fully qualified for the appointment to the post of Asst.Professor in Agronomy and therefore he submitted his application with all necessary documents.

5. The petitioner states that he received an interview call No.R3/1011/2008 dated 02.10.2009. The petitioner appeared before the selection committee and submitted all the documents. He was selected and appointment order was issued on 26.12.2009. The petitioner joined the duty on 31.12.2009.

6. The petitioner states that he received a letter dated 18.01.2010 stating since he has not done course work in Ph.D., the marks awarded by the screening committee for the PhD are withdrawn and therefore the appointment of the petitioner is cancelled, since the marks secured by him in the interview would be reduced and therefore the petitioner does not come under the consideration of the selection committee for the post of Asst.Professor Agronomy.

7. The petitioner therefore Writ Petition No.1295 of 2010. This Court by its judgment dated 22.02.2010 found that the petitioner had not been given any opportunity to defend himself properly and his appointment was cancelled without any prior notice to him. This Court therefore directed the respondent University to examine afresh the petitioner's eligibility to hold the post. It is to be mentioned here that this Court after recording the submission of the petitioner regarding the academic qualification of the petitioner observed as under:-

"9. This Court has reportedly held that the decisions of the academic qualifications should not ordinarily, be interfered with by the Courts. Whether a candidate fulfills the requisite qualification or not is a matter which should be entirely left to be decided by the academic bodies and the concerned selection committees which invariably consist of experts on the subject relevant to the selection. In the present case Dr.Kar in his representation before chancellor specifically raised the issue that Dr.Mahopatra did not possess the specialisation in the "Philosophical Analysis of Values" as one of the qualifications. The representation was rejected by the Chancellor. We have no doubt that the Chancellor must have looked into the question of eligibility of Dr.Mahopatra and got the same examined from the

experts before rejecting the representation of Dr.Kar."

8. Pursuant to the directions of this Court, the University constituted an Expert Committee, consisting of the following University Officers with the approval of the Vice-Chancellor.

1	Dr.P.Subbian, Ph.D (Ph.D in Agronomy) Professor, Department of Agronomy, Tamil Nadu Agricultural University, Coimbatore (Presently functioning as Registrar, Tamil Nadu Agricultural University, Coimbatore)	Chairman
2	Dr.M.Paramathma, Ph.D (Ph.D Plant Breeding Genetics) Professor, Department of Plant Breeding and Genetics, Tamil Nadu Agricultural University, Coimbatore (Presently functioning as Director, Tamil Nadu Agricultural University, Coimbatore)	Member
3	Dr.V.Jayapal, Ph.D (Ph.D in Agronomy) Professor, Department of Agronomy, Tamil Nadu Agricultural University, Coimbatore (Presently functioning as Dean (Agriculture), Tamil Nadu Agricultural University, Coimbatore)	Member
4	Dr.S.Jayaraman, Ph.D (Ph.D in Agronomy) Professor, Department of Agronomy, Tamil Nadu Agricultural University, Coimbatore (Presently functioning as Director, Centre for Soil Science and Crop Management Studies, Tamil Nadu Agricultural University, Coimbatore)	Member
5	Dr.P.Muthukrishnan, Ph.D (Ph.D in Agronomy) Professor and Head, Department of Agronomy, Tamil Nadu Agricultural University, Coimbatore	Member
6	Dr.P.Gopalasundaram, Ph.D (Ph.D in Agronomy) Principal Scientist, Sugarcane Breeding Institute, Coimbatore	Member

9. The petitioner was asked to appear before the Expert Committee on 29.03.2010. The Expert Committee submits its report. The Registrar after scrutinizing the report, affirmed the order of cancellation of appointment. The relevant portion of the proceedings reads as under:-

"The above Expert Committee consisting of the Chairman and members by giving opportunity to him conducted the detailed analysis of the candidate's credentials on 29.3.2010 at 11.00 a.m. and verified the testimonials of Dr.R.Isaac Manuel, Assistant Professor (Agronomy), Rice Research Station, Tirur, in accordance with the mandatory requirements prescribed in G.O.350, dated 9.9.2009 which warrants course work in his Ph.D.degree and on the eligibility of holding the post of Assistant Professor. All the members of the Committee, with open mind, approached the entire issue, conducted detailed study, discussed and analyzed the educational qualifications and other accomplishments of the Assistant Professor in his presence and by giving opportunity to him also. The performance of Dr.R.Isaac Manuel by then on 29-3-2010 was very poor. He was not able to answer most of the questions asked by the Expert Committee. Hence, Expert Committee have unanimously come to the view and decision that Dr.Isaac Manuel is not having adequate knowledge required to the post. Further, he is also not having the prescribed qualification (i.e.) the course work in Ph.D. which is mandatory for the recruitment to the post of Assistant Professor. Again, the expert committee has observed that the candidate has hardly served in the University for a few weeks and not at all completed his probation period even and the University has not yet accepted or finalised his agreement bond."

It is this order challenged in the instant writ petition.

10. The learned counsel for the petitioner would contend that the petitioner had a valid Ph.D., degree from Annamalai University. The learned counsel for the petitioner relied on the prospectus of the Annamalai University, wherein it is stated as under:-

"Course work for non-M.Phil Candidates

The research scholars who do not possess M.Phil degree shall undergo the core courses prescribed by the guide and take the Part-I Methodology Examinations in two papers at the end of one year of registration. The Scholars opted for interdisciplinary topic will take an additional paper under Part-I examination on a relevant topic prescribed by the guide. Methodology examinations should be completed within a maximum period of two years after registration.

If a candidate fails in any paper, he/she can repeat on two more occasions only. If the candidate fails in the third appearance, the registration shall be cancelled."

11. The petitioner states that he possess a valid Ph.D degree and marks awarded to him on the ground of possessing a Ph.D degree cannot be withdrawn. The petitioner states that he possesses required qualification for being appointed as Assistant Professor. He holds a master degree. He has more than a minimum Overall Grade Point (OGP) of 3.20 out of 4. He has also cleared NET examination. He would therefore states that, it cannot be said that the petitioner is ineligible for being appointed. In view of the fact that he is eligible to be appointed and in view of the fact that he has possessed a valid Ph.D., degree and further in view of the fact that the advertisement does not state that Ph.D., would not be recognized unless until the course work has not been done, the petitioner's Ph.D., cannot be rejected and the marks awarded to him on the basis of Ph.D., degree cannot be withdrawn.

12. On the other hand, the learned counsel for the respondents would submit that the Government of Tamil Nadu has laid down in G.O.Ms.No.350 Higher Education (H1) Department, dated 09.09.2009, that the Ph.D., degree should be given through a process of registration, course work and external evaluation. The respondents states categorically that at the time of interview, the committee did not examine the issue as to whether the petitioner had obtained the Ph.D., degree after having done the course work or not. When it was found that the petitioner had obtained the Ph.D., degree without being course work it was decided to withdraw the marks awarded to the petitioner on account of his Ph.D degree by the selection committee.

13. Heard the counsel for the parties.

14. Pursuant to the direction in WP.No.1295 of 2010 dated 21.01.2010, quoted supra, an expert committee was constituted as noticed earlier, the selection committee consisting of senior academicians from Tamil Nadu Agriculture University. They have examined the documents and have also examined the petitioner. After thorough scrutiny, it has been noted that the petitioner was not able to answer most of the question asked by the Expert Committee. The Expert Committee therefore came to a conclusion that the petitioner is not having adequate knowledge required for the post and he also not having the prescribed qualification i.e., course work in Ph.D., which is mandatory for the recruitment for the post of Assistant Professor. It is the condition that the course work must not ordinarily studies as a subject. It is well settled that Court must be very slow in interfering with findings/opinions of expert committee.

15. In the case of Bihar Public Service Commission Vs. Kamini & Others, (2007) 5 SCC 519, the Hon'ble Supreme Court observed as under:-

"8. Again, it is well settled that in the field of education, a court of law cannot act as an expert. Normally, therefore, whether or not a student/candidate possesses requisite qualifications, should better be left to educational institutions (vide University of Mysore v. C.D. Govinda Rao [AIR 1965 SC 491 : (1964) 4 SCR 575]). This is particularly so when it is supported by an Expert Committee. The Expert Committee considered the matter and observed that a person can be said to be Honours in the subject if at the graduate level, he/she studies such subject as the principal subject having eight papers and not a subsidiary, optional or side subject having two papers. Such a decision, in our judgment, cannot be termed arbitrary or otherwise objectionable. The learned Single Judge, in our opinion, was, therefore, right in dismissing the petition relying upon the report of the Committee and in upholding the objection of the Commission. The Division Bench was in error in ignoring the well-considered report of the Expert Committee and in setting aside the decision of the learned Single Judge. The Division Bench, while allowing the appeal, observed that the "litmus test" was the admission granted to the first respondent by the Central Institute of Fisheries Education, Mumbai. According to the Division Bench, if the first respondent did not possess Bachelor of Science degree with Zoology, the Institute would not have admitted her to the said course. The Division Bench observed that not only the first respondent was admitted to the said course, she had passed it with "flying colours". In our opinion, the Division Bench was not right in applying "litmus test" of admission of the first respondent by the Central Institute of Fisheries Education, Mumbai. The controversy before the Court was whether the first respondent was eligible for the post of District Fisheries Officer, Class II. The correct test, therefore, was not admission by the Mumbai Institution. If the requirement was of Honours in BSc with Zoology and if the first respondent had cleared BSc Honours with Chemistry, it could not be said that she was eligible to the post having requisite educational qualifications. By not treating her eligible, therefore, the Commission had not committed any illegality."

16. In view of the fact that the Expert Committee has
<https://hcservices.ecourts.gov.in/hcservices/>
come to a conclusion that the petitioner does not possess the

required qualification, this Court does not find any infirmity to the findings of the Expert Committee. The petitioner has worked in the said post only for few months and he has not even completed his probation. The counter affidavit filed by the respondents shows that total 92 applicants attended the interview and 36 applicants did not attend the interview. 56 candidates appeared for the interview. Out of 56 candidates 37 candidates have been selected. The marks awarded to the petitioner on account of Ph.D., degree was withdrawn and hence he would not have been selected.

17. Writ petition is dismissed. No Costs.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

Pkn.

To

1. The Registrar,
Tamil Nadu Agricultural University,
Coimbatore - 641 003.

2. The Vice Chancellor,
Tamil Nadu Agricultural University,
Coimbatore - 641 003.

+1cc to Mr.R.Parthiban, Advocate SR.No.87972

+1cc to Mr.Abdul Saleem, Advocate SR.No.88628

W.P.No.12552 of 2010

EV (CO)
GMY (21/11/2019)

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