

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18/2/2019
C O R A M
THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.4583 of 2019
in
WMP.NOs.5180 & 5183/2019

Tamil Nadu Self Financing College of
Education Management Association (TNSCEMA)
rep. By its General Secretary
Mr.M.Natarasan
29/E/12 New No.73
Mani Nagar
L.R.Palayam, Panruti
Cuddalore 607 106.

... Petitioner

Vs

1. The Secretary
Higher Education Department
Government of Tamil Nadu
Fort St. George
Chennai.
2. Tamil Nadu Teachers Education University
rep. By its Registrar
Gangaiammam Kovil Street
Karapakkam
Chennai 600 097.
3. The Search Committee
rep. By its Chancellor Nominee
Dr.M.Jagadesh Kumar
Vice Chancellor
Jawaharlal University
New Delhi 110 067.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records relating to the Notification of the first respondent in its G.O.(Ms) No.187 Higher Education (K2) Department, dated 14/7/2017, in so far as it reserves the post of Vice-Chancellor in the Tamil Nadu Teacher Education University and to quash first condition and first part of the second condition of the said Notification.

For Petitioner ... Mr.N.R.Chandran
Senior Counsel
for Mr.R.Kannan

For respondent ... Mr.V.Kadirvelu
Special Government Pleader
(Higher Education)
for R.R.1 and 2.

O R D E R

(Order of the Court was delivered by Subramonium Prasad, J)

Tamil Nadu Self Financing College of Education Management Association (TNSCEMA), represented by its General Secretary, has challenged a Notification, made in G.O.(Ms) No.187 Higher Education (K2) Department, dated 14/7/2017 of the first respondent.

2. According to the petitioner, Tamil Nadu Teachers Education University was established by an Act No.33 of 2008. Tamil Nadu Education University Act, lays down the qualifications for appointment of Vice Chancellor. Relevant portion of Section 10 (3) of the Tamil Nadu Teachers Education University reads as under:-

"The holder of the post of Vice-Chancellor shall be an academician, who shall have

(i). Experience of at least eight years as an University Professor of any University; or

(ii). Experience of at least fifteen years of service as Reader of any University or Reader of any affiliated college."

3. State of Tamil Nadu brought out in Notification - X, G.O.Ms.No.187 Higher Education K 2 Department, prescribing the qualifications, of Vice Chancellor. The said G.O., reads as under:-

"In exercise of the powers conferred by clause (ii) of sub-Section (2-A) of Section 10 of the Tamil Nadu Open University Act, 202 (Tamil Nadu Act 27 of 2002), the Government of Tamil Nadu in consultation with the Chancellor of the Tamil Nadu Open University, hereby specifies that every person recommended by the Committee, referred to in sub-Section (2) of the said

Section 10, for appointment as Vice-Chancellor shall possess the following educational qualifications and experience namely -

1. A Ph.D Degree in any discipline.
 2. Not less than twenty years of experience in teaching and research in Universities, or post graduate colleges or publicly funded research institutions or in all taken together
- or

Not less than ten years of experience as Professor in a University system;

3. Not less than six years of administrative experience in Universities or post graduate colleges or publicly funded research institutions in positions such as Dean, Head of the Department or any other such administrative positions of equal or higher degree of responsibility or in, all taken together.

4. Must have published not less than five research papers in University Grants Commission listed journals after acquiring Ph.D or authored not less than two books (non edited books) if adequate number of such University Grants Commission listed journals are not available and

5. Must have presented not less than two papers in international level academic or research events and possess experience of having conducted not less than one such academic or research event."

4. This G.O has been challenged that it runs contrary to the mandate of the Tamil Nadu Teachers' Education University Act, 2008.

5. Heard Mr.N.R.Chandran, learned Senior Counsel for Mr.R.Kannan, for the petitioner and Mr.V.Kadirvelu, learned Special Government Pleader (Higher Education) for the respondents 1 and 2.

6. Mr.N.R.Chandran, learned Senior Counsel for the petitioner would contend that Clause 1 and Clause 2 of the Notification which provides that a person with PHD degree in any discipline, having not less than 20 years of experience, in teaching and research in Universities or post graduate colleges or publicly funded research institutions or in all taken together is contrary to the provisions of the Act.

7. According to him, unless and until a person has an experience of Professor in an University system, he cannot be made eligible to be appointed as Vice Chancellor. He would also state that a mere PHD degree in any discipline would again run

contrary to the mandate of the Act and that a person must have PhD in education/training without having an education/teaching a person cannot become a Vice Chancellor of the Tamil Nadu Teacher Education University. According to him, the object of the said University reads as under:-

1. To provide high quality education, monitor Teacher Education as approved by National Council for Teacher Education at all levels in the State.

2. To develop research facilities in Teacher Education.

3. To find out ways and means to identify innovative courses in Teacher Education.

4. To institute degrees and other academic distinction in Teacher Education approved by NCTE.

5. To confer degrees and other academic distinction in Teacher Education approved by NCTE.

6. To confer degrees and other academic distinction on persons who have carried out research in University or in any other centre or institutions recognised by the University under conditions prescribed for Teacher Education.

7. To confer honorary degrees in teacher education in the prescribed manner and under conditions prescribed.

8. To conduct and organise seminars, workshops an symposia in promotion Teacher Education with a view to offering programs in the latest field and to develop the extension activities.

9. To promote quality in Teacher Education and to standardize the system of operation.

10. To promote an awareness and understanding of the social needs of the country in the students and teachers and prepare them for fulfilling such needs.

8. He would therefore, submit that unless and until a person is well versed, in all aspects of teacher education, a candidate cannot be found to be suitable to be appointed as a Vice Chancellor in Tamil Nadu Teacher Education University which has been established under the Act 33/08.

9. We are afraid, we cannot accept the contention of the learned Senior Advocate.

10. Government Order, in challenge prescribes a Ph.D degree. The Act does not prescribe for any educational qualification. The only qualification is for appointment as a University Professor, with 8 years experience or 15 years as

Reader. University Grants Commission does not prescribe that a reader must have a Ph.D qualification. Government Order by prescribing Ph.D as a qualification for being appointed as Vice Chancellor, ensures that a person, who is not a Ph.D in a subject would assess the performance of persons who are Ph.Ds, i.e., higher qualified. It therefore, cannot be said that the insistence on PHD is violative of the said Act.

11. It is well settled that Government can prescribe any higher qualification by issuing Government Orders than those prescribed in the statutes. Contention of the petitioner that only a person who is a Ph.D in Education/teaching alone can be made as a Professor of the Tamil Nadu Teacher Education University, cannot be accepted. It is for the Government to decide the qualifications that should be prescribed. There is nothing preposterous, if the qualification for appointment of Vice Chancellor as a Teacher in the Tamil Nadu Teacher Education University. It is not for a Ph.D in education/teaching.

12. Government has taken a decision that a person having a Ph.D degree, having not less than 20 years of experience in teaching and research in Universities or P.G Colleges or public refunded institutions or in all taken together is sufficient for a person to be eligible to be considered for the post of being appointed as Vice Chancellor.

13. Taking into account a common object of Act 33/2008 and the purpose for which University is established, it cannot be stated that the qualifications prescribed by the Government needs to be struck off. The Hon'ble Supreme Court in P.U.Joshi v. Accountant General reported in (2003) 2 SCC 632, the Hon'ble Supreme Court, held as follows:

"10.We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/ abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the

Rules relating to a service and alter or amend and vary by addition /subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate Rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/ categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that Rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new Rules relating to even an existing service."

14. In view of the above, we find no merit in the writ petition and accordingly, the same is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mvs.
To

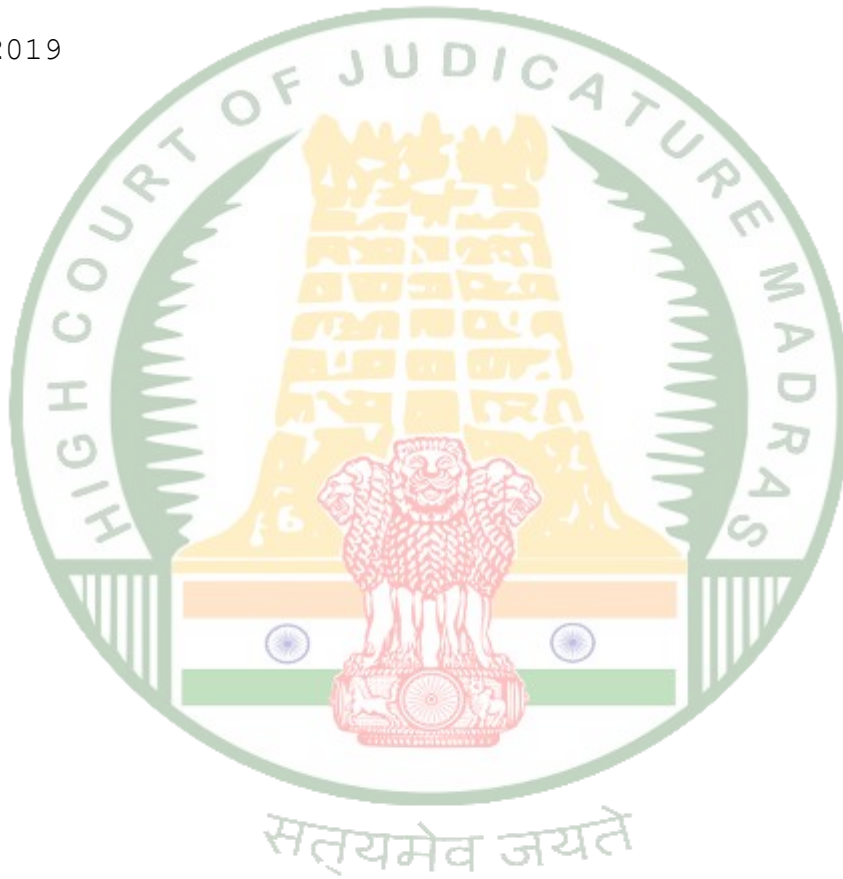
1. The Secretary
Higher Education Department
Government of Tamil Nadu
Fort St. George
Chennai.
2. The Registrar
Tamil Nadu Teachers Education University
Gangaiammam Kovil Street
Karapakkam
Chennai 600 097.

3. The Chancellor Nominee
Search Committee
Dr.M.Jagadesh Kumar
Vice Chancellor
Jawaharlal University
New Delhi 110 067.

+1cc to Government Pleader sr.15149

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