

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.33524 of 2019
and
WMP Nos.33986 & 33989 of 2019

Dr.M.Palaniyandi

... Petitioner

.Vs.

- 1.The Secretary,
Department of Higher Education,
Government of India,
Sasthri Bhavan, New Delhi-110 001.
- 2.The Secretary,
University Grants Commission,
Bahadur Shah ZafarMarg,
New Delhi-110 002.
- 3.The Registrar,
Central University of Tamil Nadu
Neelakudi Campus, Tiruvarur-60 005.
- 4.Chairman, Recruitment Committee,
Central University of Tamil Nadu,
Nelakudi Campus, Thiruvarur-610 005.
- 5.Dr.V.Saravanabhavan, Assistant Professor,
Department of Geography,
Madurai Kamaraj University, Madurai.
- 6.Dr.K.Balasubramani, Assistant Professor,
Department of Geography,
Central University of Tanil Nadu,
Neelakudi Campus, Thiruvarur-610 005.
- 7.Dr.P.Masilamani, Assistant Professor,
Department of Geography,
Bharathidasan Univesity,
Tiruchirapalli.

8.Dr.K.Nageswara Rao, Assistant Professor,
Block 15J, Geography Discipline,
School of Sciences, IGNOU, New Delhi-68.

9.Dr.S.Vadivel, Assistant Professor,
Department of Geography,
Government Arts College (Autonomous),
Kumbakonam.

10.Dr.K.Banukumar, Assistant Professor,
Department of Geography,
K.N.Government Arts College (Autonomous),
Thanjavur.

11.Dr.D.Yuvaraj, Assistant Professor,
Department of Geography,
Government Arts College (Autonomous),
Coimbatore.

.... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent passed in proceedings 7-116/2019-Estt/709 dated 15.11.2019 and quash the same and consequently direct the respondents 1 to 4 include the petitioner in the selection list in the first place as petitioner's Academic Performance Index (API of UGC) is 722 points.

For Petitioner : Mr.T.M.Madasamy

For R 1 & R 2 : Mr.S.Makesh, CGSC

For R 3 & R 4 : Ms.Ruth Celestira
for M/s.Maimoona Badsha

O R D E R

The present writ petition has been filed challenging the impugned proceedings of the 3rd respondent dated 15.11.2019, wherein, the name of the petitioner was not short listed to be considered for the post of Associate Professor.

2.The petitioner is working at ICMR-VCRC,Field Station, Kottaiyam, Kerala. An advertisement was given by the Central University of Tamil Nadu for recruitment to the post of Associate Professors in various departments including the department of Geography. The petitioner applied for the post of Associate Professor in the department of Geography. The

petitioner found that his name was not under consideration through the impugned notification published on 15.11.2019, in the website. Aggrieved by the same, the present writ petition has been filed before this Court.

3.Mr.T.M.Madasamy, learned counsel appearing on behalf of the petitioner submitted that the petitioner is possessing all the qualifications prescribed for the post of Associate Professor. According to the learned counsel, the academic performance Index (API) of the petitioner is the highest with 722 points and insofar as the private respondents are considered, it is much lower and the same is clear from the impugned proceedings dated 15.11.2019. The learned counsel submitted that the department is carrying on with the recruitment in an illegal manner, and the petitioner has not been short listed and as a result of the same, the entire selection is now being challenged before this Court.

4.Ms.Ruth Celestira, learned counsel appearing on behalf of the 3rd and 4th respondents submitted that the petitioner did not possess the necessary qualification to be considered for the post of Associate Professor. Therefore, there was no requirement for the department to calculate the API score of the petitioner. The learned counsel further submitted that the advertisement itself was based on UGC norms. The learned counsel brought to the notice of this Court, the eligibility that has been prescribed for the post of Associate Professor and the same is extracted hereunder:

I. Assistant Professor :

Eligibility (A or B)

A. i) A Master's degree with 55% marks (or an equivalent grade in a point-scale wherever the grading system is followed) in a concerned/relevant/allied subject from an Indian University, or an equivalent degree from an accredited foreign university.

ii) Besides fulfilling the above qualification, the candidate must have cleared the National Eligibility Test (NET) conducted by the UGC or the CSIR, or a similar test accredited by the UGC, like SLET/SET or who are or have been awarded a Ph.D Degree in accordance with the University Grants Commission (minimum Standards and Procedure or Award of M.Phil./Ph.D. Degree) Regulations, 2009 or 2016 and their amendments from time to time as the case may be exempted from NET/SLET/SET:

Provided, the candidates registered for the Ph.D. Programme prior to July 11,2009, shall be governed by the provisions of the then existing

Ordinances/Bye-laws/Regulations of the Institution awarding the degree and such Ph.D. Candidates shall be exempted from the requirement of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions subject to the fulfillment of the following conditions:-

- a) The Ph.D. Degree of the candidate has been awarded in a regular mode;
- b) The Ph.D. Thesis has been evaluated by at least two external examiners;
- c) An open Ph.D. Viva voce of the candidate has been conducted;
- d) The Candidate has published two research papers from his/her Ph.D. Work, out of which at least one is in a refereed journal;
- e) The candidate has presented at least two papers based on his/her Ph.D. work in conferences/seminars sponsored/funded/supported by the UGC/ICSSR/CSIR or any similar agency.

The fulfillment of these conditions is to be certified by the Registrar or the Dean (Academic Affairs) of the University concerned.

Note: NET/SLET/SET shall also not be required for such Masters Programmes in disciplines for which NET/SLET/SET is not conducted by the UGC, CSIR or similar test accredited by the UGC, like SLET/SET.

OR

B. The Ph.D degree has been obtained from a foreign university/institution with a ranking among top 500 in the World University Ranking (at any time) by any one of the following: (i) Quacquarelli SYMONS (QS) (ii) the Times Higher Education (THE) or (iii) the Academic Ranking of World Universities (ARWU) of the Shanghai Jiao Tong University (Shanghai).

Note: The Academic score as specified in Appendix II (Table 3A) for Universities, and Appendix II (Table 3B) for Colleges, shall be considered for short-listing of the candidates for interview only, and the selections shall be based only on the performance in the interview.

II. Associate Professor:
Eligibility:

i) A good academic record, with a Ph.D. Degree in the concerned/allied/relevant disciplines.

ii) A Master's Degree with atleast 55% marks (or an equivalent grade in a point-scale, wherever the grading system is followed).

iii) A minimum of eight years of experience of teaching and/or research in an academic/research position equivalent to that of Assistant Professor in a University, College or Accredited Research Institution/industry with a minimum of seven publications in the peer-reviewed or UGC listed journals and a total research score of Seventy five (75) as per the criteria given in Appendix II, Table 2.

5. The learned counsel for the respondents further submitted that clause 10 of the UGC Regulation 2018 explains the manner in which the past services will have to be counted for direct recruitment. The relevant portion of the UGC Regulation is extracted hereunder:

10.0. Counting of Past Services for Direct Recruitment and Promotion under CAS

Previous regular service, whether national or international, as Assistant Professor, Associate Professor or Professor or equivalent in a University, College, National Laboratories or other scientific/professional organisations such as the CSIR, ICAR, DRDO, UGC, ICCSR, ICHR, ICMR and DBT, should count for the direct recruitment and promotion under the CAS of a teacher as Assistant Professor, Associate Professor, Professor or any other nomenclature, provided that:

(a) The essential qualifications of the post held were not lower than the qualifications prescribed by the UGC for Assistant Professor, Associate Professor and Professor, as the case may be.

(b) The post is/was in an equivalent grade or of the pre-revised scale of pay as the post of Assistant Professor (Lecturer) Associate Professor (Reader) and Professor.

(c.) The concerned Assistant Professor, Associate professor and Professor should possess the same minimum qualifications as prescribed by the UGC for appointment to the post of Assistant Professor, Associate Professor and Professor, as the case may be.

(d) The post was filled in accordance with the prescribed selection procedure as laid down in the Regulations of the University/State Government/Central

Government/Institutions concerned, for such appointments.

(e) The previous appointment was not as guest lecturer for any duration.

(f) The previous Ad-hoc or Temporary or contractual service (by whatever nomenclature it may be called) shall be counted for direct recruitment and for promotion, provided that:

(i) The essential qualifications of the post held were not lower than the qualifications prescribed by the UGC for Assistant Professor, Associate Professor and Professor, as the case may be

(ii) The incumbent was appointed on the recommendation of a duly constituted Selection Committee/Selection Committee constituted as per the rules of the respective university;

(iii) the incumbent was drawing total gross emoluments not less than the monthly gross salary of a regularly appointed Assistant Professor, Associate Professor and Professor, as the case may be; and

(g) No distinction shall be made with reference to the nature of management of the institution where previous service was rendered (private/local body/Government), while counting the past service under this clause.

6. The learned counsel for the respondents by pointing out to the above regulations, submitted that the name of the petitioner was not short listed for the post of Associate Professor since he did not fulfill the minimum qualification. The learned counsel submitted that the essential qualification for the post of Associate Professor must not be lower than the qualification prescribed by the UGC for Assistant Professor. In the present case, the petitioner did not possess NET and he was claiming on the basis that he possess a Ph.D. The Ph.D. was acquired by the petitioner on 21.05.2019. The learned counsel therefore submitted that the petitioner became eligible even to be considered as an Assistant Professor as per the UGC norms only on 21.05.2019 since even for consideration to the post of Assistant Professor, the Ph.D. is a requisite qualification. Therefore, the petitioner does not have any experience since he possessed Ph.D. only on 21.05.2019, and he never had any

experience with Ph.D. qualification till 20.05.2019. Since the petitioner did not even possess the minimum qualification of eight years of experience as per Class 10(a) of the UGC regulations, 2018, he was found to be lacking even for the minimum qualification and therefore his name was not short listed.

7.This Court has carefully considered the submissions made on either side and the materials available on record.

8.This Court finds a lot of force in the submissions made by the learned counsel appearing on behalf of the 3rd and 4th respondents. Unless, the petitioner possess the minimum qualification, there is no question of taking into consideration, the API score of the petitioner. In the present case, admittedly, the advertisement itself was based on UGC norms. The notification calling for appointment had specifically stated as one of the eligibility criteria that a candidate must have minimum of eight years of experience of teaching and/or research in an academic/research position equivalent to that of Assistant Professor in a University. College or Accredited Research Institution/Industry with a minimum of seven publications in the peer-reviewed or UGC-listed journals and a total research score of Seventy five (75) as per the criteria given in Appendix II, Table 2.

9.The counting of the past services is covered under Class X of the UGC Regulations 2018. It clearly states that the essential qualification of the post held should not be lower than the qualification prescribed by the UGC for Assistant Professor while considering a person for the post of an Associate Professor.

10.The petitioner claims to have held a post equivalent to the post of an Assistant Professor for nearly nine years, and therefore he claims to have an experience of nine years. The petitioner has acquired the Ph.D. degree only on 21.05.2019. Even to be considered for the post of an Assistant Professor, this Ph.D. decree is a mandatory requirement. Therefore, the petitioner has become eligible even for the post of Assistant Professor as per the UGC norms only on 21.05.2019. If that is the case, the question of claiming eligibility by way of some experience, for an Associate Professor without Ph.D. till 20.05.2019, does not arise for consideration. As per the advertisement that was published by the department, the petitioner became eligible only from 21.05.2019 even for the minimum entry cadre when he completed his Ph.D. Even to be considered for the post of Associate Professor, it prescribes for eight years experience, which admittedly, the petitioner does not possess. Therefore, the respondents were perfectly

right in not considering the candidature of the petitioner, since he failed to satisfy even the minimum requirement to be considered for selection to the post of Associate Professor.

11. In view of the above discussion, this Court does not find any merits in the present writ petition and there are absolutely no grounds to interfere with the selection process of the respondents.

Accordingly, this writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
Department of Higher Education,
Government of India,
Sasthri Bhavan, New Delhi-110 001.

2. The Secretary,
University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi-110 002.

3. The Registrar,
Central University of Tamil Nadu
Neelakudi Campus, Tiruvarur-60 005.

4. Chairman, Recruitment Committee,
Central University of Tamil Nadu,
Nelakudi Campus, Thiruvarur-610 005.

+2cc to Mr. T.M. Madasamy, Advocate Sr.101122
+1cc to Mr. S. Makesh, CGSC Sr.101500

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rsk[col]
srg 28/01/2020