



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P. (MD) No.25884 of 2019

and

W.M.P. (MD) No.22423 of 2019

Dr.S.Uma

... Petitioner

/vs./

The Registrar,
Bharathidasan University,
Tiruchirappalli - 620 024.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records connected with the proceedings issued in Ref.No.H2/13677/2019 dated 19.09.2019 passed by the respondent and quash the same and direct the respondent to accept the petitioner's application for the post of Assistant Professor (Department of Bharathidasan School of Management).

For Petitioner : M/s.S.Ilamvaludhi
For Respondent : Mr.V.R.Shanmuganathan
Standing Counsel

ORDER

The petitioner herein, who claims to have the necessary qualifications for the post of Assistant Professor for the School of Management Faculty, had sent an application on 07.08.2019 through speed post. The notification issued by the respondent University stipulates that the last date for receipt of completed application is on 09.08.2019 by 05.00 p.m. Since the petitioner's application was received by the respondent on 10.08.2019, which is after the last date prescribed by the respondent University, the petitioner's demand draft enclosed along with the application was returned on 19.09.2019 along with the impugned letter, which is put under challenge in the present writ petition.

2. Learned counsel for the petitioner would submit that since the petitioner was fully qualified to be considered for the post of Assistant Professor in the School of Management Faculty, she had obtained a demand draft on 18.07.2019 itself, which is a prerequisite for the application and since she was waiting for the experience certificate to be supplied to her, there had occurred a few days delay. However, even prior to the last date prescribed for receipt of the completed application, she had sent the application by speed post on 07.08.2019 at 03.00 p.m., itself. In view of the



postal delay, the application came to be received by the respondent on 10.08.2019. As such, learned counsel would submit that the delay caused during the transit of the application from the petitioner to the University should not be put against the petitioner.

3. Countering the submissions made by the learned counsel for the petitioner, the learned counsel for the respondent would submit that the Notification dated 08.07.2019 clearly stipulates that the last date for receipt of the completed application is on 09.08.2019 and that the petitioner ought to have ensured that the application reaches by the respondent by 09.08.2019. Since such application was received after the last date had expired, there is no infirmity on the part of the respondent in returning the demand draft to the petitioner. Even otherwise he would submit that pursuant to the expiry of the last date, they have proceeded with scrutinizing of the application and have also short listed the candidates. However, personal interview is yet to be conducted for the short listed candidates.

4. On a *prima facie* view, it cannot be said that the respondent University had improperly returned the demand draft, since the Notification clearly stipulates that the last date for receipt of the completed application is 09.08.2019 by 05.00 p.m. But in the peculiar circumstances of this case, the petitioner herein, who is duly qualified to apply for the post of Assistant Professor, had also intended well in advance to apply for the post, by obtaining a demand draft on 18.07.2019 itself. The reasons adduced by the petitioner for not immediately making the application thereafter is that she had applied for her experience certificate from the previous employment, which had consumed a few days. On receipt of such experience certificate, the petitioner had sent the application along with required demand draft on 07.08.2019 itself, which according to the petitioner is within time.

5. The petitioner is otherwise qualified as per the eligibility criteria prescribed by the respondent for the aforesaid post. When the petitioner had sent the application, along with demand draft, atleast one day prior to the last date by speed post, there has occurred a delay during the transit, due to which, the respondent had received the application only on 10.08.2019. In view of these facts and also taking into account that the delay caused on the part of the postal authorities should not be put as against the petitioner, who had chosen to make the application one day prior to the last date, this Court is inclined to take a lenient view and thereby grant an opportunity to the petitioner to participate in the selection process.

6. As observed earlier, the respondent also cannot be found fault with and in view of these peculiar circumstances, it is hereby made clear that the present leniency being extended to the



petitioner, should not be quoted as a precedent, in any other similar cases.

7. In the light of the above observations, there shall be a direction to the respondent herein to permit the petitioner herein to furnish a fresh demand draft for a sum of Rs.1,000/- [Rupees One Thousand only] along with representation enclosing a copy of this order and on receipt of such representation along with fresh demand draft, the respondent herein shall scrutinize the same in accordance with their procedures for the selection process.

8. It is also observed that the respondent herein shall not quote the earlier rejection of the petitioner's application during the course of such selection process.

9. In view of the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS)

// True Copy //

Sub Assistant Registrar(CS)

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+2 CC to M/s.ILAMVAZHUTHI, Advocate (SR-104818[F] dated 13/12/2019)

Order made in
W.P. (MD) No.25884 of 2019

Dated:
12.12.2019

kmk (CO)
TR(13.12.2019) 3P 2C