

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 04.02.2020	Delivered on 10.02.2020
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CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.984 of 2020
and WMP Nos.1201 & 1203 of 2020

Dr.J.Soundararajan

..Petitioner

Vs.

The Registrar,
University of Madras,
Chepauk,
Chennai-600 005.

..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, after calling for the all records pertaining to the passing of the impugned notification dated 05.01.2020 for the post of Professor in Ancient History and Archaeology Department on the file of the respondent and quash the same consequently direct the respondent to Award the petitioner from Associate Professor (Stage-4) to Professor (Stage-5) as on 08.11.2019 in the Ancient History and Archaeology Department on the basis of UGC Regulations prescribing the minimum academic performance and service requirements for promotion of teachers in Universities under Career Advancement Scheme by rectifying Promotion order dated 24.09.2018 as 08.11.2017 to 08.11.2016 .

For Petitioner : Mr.Chellaiah, Senior Counsel
for Mr.S.Lingesh

For Respondent : Mr.L.P.Shanmugasundaram
Standing Counsel

ORDER

The present Writ Petition has been directed against the Notification dated 05.01.2020, issued by the respondent University to fill up the post of Professor in Ancient History and Archaeology Department and for a direction to the respondent University to consider the appointment of the Petitioner as the Professor in the said Department under the Career Advancement Scheme [hereinafter referred to as "CAS"].

2.The case of the Petitioner is that he was appointed as an Assistant Professor in the year 2004, in the Department of Ancient History and Archaeology in the respondent University. The services of the petitioner was confirmed in the year 2006. The petitioner was thereafter promoted to the post of Assistant Professor (Stage 2) in the year 2013 under the CAS with effect from 08.11.2008. Thereafter, the petitioner was promoted as Assistant Professor (Stage 3) under CAS with effect from 08.11.2013.

3.The petitioner was thereafter awarded promotion as Associate Professor (Stage 4) with effect from 08.11.2017, on the recommendation of the Selection Committee by its official communication dated 24.09.2018, under CAS. The petitioner was made as the Head in-charge of the Department of Ancient History and Archaeology on 27.06.2019.

4.When the petitioner was considered for promotion under CAS to the post of Associate Professor (Stage 4), his promotion was given effect from 08.11.2017 and according to the petitioner, it should have been given effect from 08.11.2016, as per the UGC norms. On receiving the Order, the petitioner made a representation to the respondent University on 12.10.2018, to correct the date of promotion from 08.11.2017 to 08.11.2016. Even subsequently, the petitioner made a representation on 17.12.2019, in this regard. The representations made by the petitioner was not considered and as a result of the same, the petitioner has been deprived from being considered for promotion to the post of Professor, which according to the petitioner, he is entitled from 08.11.2019. In the meantime, the respondent University had issued a Notification dated 05.01.2020, to fill up the post of Professor in the Department of Ancient History and Archaeology. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5.Mr. A.E. Chelliah, learned Senior Counsel appearing on behalf of the petitioner submitted that the petitioner is eligible for being promoted to the post of Professor as on 08.11.2019 and therefore, the respondent University ought not to have issued the impugned Notification to fill up that post. The learned Senior Counsel further submitted that the representations given by the petitioner was already pending before the University, wherein, the petitioner had sought for rectifying the earlier promotion order by fixing the date of promotion with effect from 08.11.2016. Even, without considering this representation, the present Notification has been issued by the respondent University and therefore, the petitioner has approached this Court.

6.The learned Senior Counsel further submitted that the respondent University has acted against the norms of UGC and the promotion of the petitioner to the post of Professor is being denied in an arbitrary manner and there is a clear discrimination on the part of the respondent University.

7.The learned Senior Counsel in order to substantiate his submissions brought to the notice of this Court the academic records and research papers submitted by the petitioner in various seminars and Universities. The learned Senior Counsel further submitted that the petitioner has been consistently having very high Academic Performance Indicator [hereinafter referred to as "API"], which is a very important requirement for considering a candidate for promotion under the CAS. Therefore, the learned Senior Counsel concluded his arguments by submitting that the respondent University ought to have rectified the effective date of the earlier promotion order from 08.11.2017 to 08.11.2016 and consequently, the present Notification issued by the Madras University must be quashed.

8.The Registrar of the respondent University, has filed a counter affidavit in this Writ Petition. The counter affidavit does not raise any serious objections with regard to the facts of the present case. The main ground that has been taken in the counter affidavit is to the effect that as per the UGC Regulations, the eligibility for promotion from Stage 3 to Stage 4 and the effective date of promotion, will depend upon the API score and the performance of the candidate before the Selection Committee. The Selection Committee found the API score of the petitioner for the period 2013 to 2016 as inadequate and therefore, the petitioner was not granted promotion with effect from 08.11.2016. The Committee thereafter, called for additional information and found that the API score of the petitioner for the year 2016-2017, was sufficient and hence the Selection Committee had recommended the promotion of the petitioner effective from 08.11.2017 and accordingly, the petitioner was awarded promotion as Associate Professor (Stage 4) with effect from 08.11.2017. On this ground, the respondent University has sought for the dismissal of the present Writ Petition and it has been stated that the petitioner is eligible to apply for the next promotion only on 08.11.2020.

9.Mr. L.P. Shanmugasungaram, learned Standing Counsel appearing on behalf of the respondent University apart from reiterating the stand taken in the counter affidavit, submitted that the Selection Committee consisted of experts in the field and they had taken into account the performance of the petitioner for the years 2013-2016 and during this period, the petitioner's API score was inadequate and therefore, the

promotion was not given effect from 08.11.2016. The learned Standing Counsel submitted that this decision taken by the Selection Committee is based on an objective assessment of the performance of the petitioner during the relevant point of time and this Court cannot sit over in judgment made by the Selection Committee. The learned Standing Counsel submitted that the selection was conducted strictly in accordance with Clause 6.3.2. and 6.3.12(c) of the UGC Regulations, 2010. In view of the same, the learned Standing Counsel sought for dismissal of the Writ Petition since it is devoid of merits.

10. This Court has carefully considered the submissions made on either side and the materials available on record. This Court also had the advantage of scrutinising the files that was submitted by the respondent University which contained the assessment done by the Selection Committee.

11. This Court before venturing into deciding the issue that has been raised by the petitioner, would want to take a look at the relevant UGC Regulations which governs the promotion under CAS. Clause 6.3.2 and 6.3.12 (c) are the relevant Clauses to be taken note of and they are extracted hereunder:

6.3.2. Candidates who do not fulfill the minimum score requirement under the API Scoring System proposed in the Regulations as per Tables II (a and b) of Appendix III or those who obtain less than 50% in the expert assessment of the selection process will have to be re-assessed only after a minimum period of one year. The date of promotion shall be the date on which he/she has successfully got re-assessed.

6.3.12(c) : If the candidate does not succeed in the first assessment, but succeeds in the eventual assessment, his/her promotion will be deemed to be from the later date of successful assessment.

12. It is clear from the above Regulations that a candidate who does not fulfil the minimum score requirements under the API scoring system or those who obtain less than 50% in the expert assessment of the selection process, will be eligible to be again reassessed only after a minimum period of one year. In cases where the candidate does not succeed in the first assessment, but succeeds in the eventual assessment, his or her promotion will be deemed to be effective from the later date of successful assessment. According to the respondent

University, the API score of the petitioner for the years 2013-2016, was found to be inadequate in the first assessment and only in the eventual assessment, where his API score for the year 2016-2017 was found to be adequate, recommendation was made for his promotion as Associate Professor (Stage 4) with effect from 08.11.2017, which is the later date of successful assessment.

13. The files pertaining to the minutes of the Selection Committee Meeting held on 17.09.2018, was placed before this Court. The Committee consisted of 8 members. They are the Chairman, 3 Subject Experts, Head of Department, Dean and a Professor who is the Scheduled Caste Nominee. The Selection Committee, after evaluating the academic credentials, achievements and performance in the interview of the petitioner, has awarded a total marks of 50. The Committee considered the performance of the petitioner during the period of assessment (08.11.2013 to 08.11.2016) and found that it is not adequate. The Committee found the performance of the petitioner for the year 2016-2017 to be adequate and therefore, recommended to promote the petitioner as an Associate Professor (Stage 4) with effect from 08.11.2017. The Committee while considering the performance of the petitioner had taken into consideration, the API score of the petitioner for the period from 08.11.2013 to 07.11.2016 and the score awarded by the Committee is extracted hereunder:

Category I	Category II	Category III	Category II + III
95	45	218	263

14. This score was found to be inadequate. Therefore, the petitioner was not found to fulfil the minimum score requirement. The Committee also considered the API score of the petitioner for the fourth year i.e. 2016-2017 and found it to be adequate and therefore, in line with Clause 6.3.12(c) of the UGC Regulations, the promotion to the post of Associate Professor (Stage 4) was granted with effect from 08.11.2017, which is the later date of successful assessment.

15. The Selection Committee has made an objective assessment and has come to a conclusion and this Court cannot sit over in judgment on the scores assigned to the petitioner and this Court does not find any apparent illegality in the process adopted by the Selection Committee, while considering the petitioner for promotion to the post of Associate Professor (Stage 4) under CAS. Therefore, there is no reason to interfere

with the Notification issued by the respondent University to fill up the post of Professor in the Department of Ancient History and Archaeology. The petitioner will be entitled to be considered for promotion to the post of professor only on completion of three years which falls on 08.11.2020.

In the result, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (C.S.III)

/True Copy/

Sub Assistant Registrar

To

The Registrar,
University of Madras, Chepauk,
Chennai-600 005.

+3 cc to M/s.S.Lingesh, Advocate Sr.No. 10473
+1 cc to M/s.L.P.Shanmugasundaram, Advocate Sr.No.10565
+1 cc to The Special Government Pleader Sr.No.10473

AKM/12.02.2020 /6P-7C/

Order made in W.P.No.984 of 2020

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