

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2020

CORAM

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

WP.No.3778 of 2020
and
WMP.No.4471 of 2020

Dr.S.Meera

.. Petitioner

- Vs -

1. The Secretary,
Ministry of Human Resource Development,
Union of India,
Shastri Bhawan,
New Delhi-110 001.
2. Pondicherry University,
(A Central University)
Rep. by its Registrar,
Dr.B.R.Ambedkar Administrative Building,
Kalapet, Puducherry-605 014.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Declaration, declaring that the Notification for Direct Recruitment of Faculty positions vide Advt. No.PU/RC/2019/34 dated 05.08.2019 and Corrigendum notification vide Advt. No.PU/RC/2019/35 dated 29.10.2019 in respect of the post of Asst. Professor in the faculty of Law, issued by the second respondent and its entire selection process as illegal, null and void and consequently, direct the 2nd respondent to issue fresh notification by specifically mentioning the reserved and unreserved seats to be filled up, in respect of the post of Asst. Professor in the faculty of Law in the 2nd respondent University by fixing adequate time for submission of online application.

For Petitioner : Mr.P.Wilson
Senior Counsel
for Mr.P.Rajavel

For Respondents: Mr.V.Chandrasekaran for R1
Mrs.A.V.Bharathi for R2

O R D E R

This writ petition has been filed challenging the notification issued by the second respondent-University, which had called for applications to the post of Professor, Associate Professor and Assistant Professor in various departments.

2. In the present case, this Court is concerned with the post of Assistant Professor in the faculty of Law. The contention raised by the petitioner is that in both the notification dated 05.08.2019 and the Corrigendum that was issued on 29.10.2019, there was absolutely no clarity as to how many seats are being reserved for Unreserved (UR) category. In view of the same, the petitioner was not in a position to apply for the selection to the post of Assistant Professor. Aggrieved by the same, the present writ petition has been filed before this Court.

3. Mr.P.Wilson, learned Senior Counsel submitted that the notification and the corrigendum notification issued by the second respondent-University is absolutely lacking clarity with regard to the number of seats that have been allotted to UR category. The learned Senior Counsel brought to the notice of this Court the notification and pointed out that there are totally four (4) posts that are going to be filled in the position of Assistant Professor and what has been stated in the notification is that one seat is allotted to ST and other seat is allotted to OBC and there is no clarification as to how many seats will be under the UR category. The learned Senior Counsel, in order to substantiate his arguments, brought to the notice of this Court the notification that was issued by various other Universities through out India and pointed out that in every University, there is a specific mention with regard to the number of seats that are allotted under UR category. Therefore, the learned counsel submitted that the petitioner must not be deprived of participating in the selection to the post of Assistant Professor due to the mistake committed by the second respondent-University.

4. Per contra, Ms.D.Bharathi, learned standing counsel appearing on behalf of the second respondent submitted that there is no requirement to mention separately the UR category since the notification itself makes it clear that out of the four posts, one goes to the ST category and other goes to the OBC category and the rest two will naturally fall under the UR category. The learned counsel submitted that the second respondent-University has always issued notifications in this manner and till now no one has questioned the same and everyone

has correctly understood that whatever seats remain after the reservation, will only fall under the UR category.

5. The learned counsel further developed her arguments by submitting that the last date for submission of the online application was extended upto 20.11.2019 and the hard copy of the application must have been submitted before 29.11.2019 and the petitioner having missed the bus, is now making an indirect attempt to get into the selection way out of time and for this purpose, the petitioner is coming up with a ground as if the notification did not stipulate the number of posts under the UR category. The learned counsel further submitted that if the applications are entertained at this stage, it will unnecessarily open the pandora's box and the University will be flodded with similar requests for entertaining the application. The learned counsel concluded her arguments by submitting that what the petitioner was not able to directly achieve, should not be allowed to be achieved indirectly by filing the present writ petition and therefore, the present writ petition is liable to be dismissed.

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

7. It is seen that the second respondent-University issued the notification originally on 05.08.2019 calling for applications to fill up various faculty posts in various Departments. In the present case, this Court is concerned with the Law Department, wherein, four posts of Assistant Professor was sought to be filled up in the present selection process. Subsequently, a Corrigendum came to be issued by the second respondent-University on 29.10.2019. By virtue of this Corrigendum notification, the last date for submission of the online application was extended up to 20.11.2019 and the last date for submission of hard copy of the application was extended upto 29.11.2019.

8. The main issue that has been raised in the present writ petition is that the entire notification is silent with regard to the number of posts that are falling under the UR Category. The learned counsel appearing on behalf of the second respondent-University submitted that the reservation has been specifically mentioned in the notification and one seat has been reserved for ST and one seat has been reserved for OBC Category and therefore, the rest of the two seats will naturally fall under the UR category. Therefore, she submitted that there is no requirement for the second respondent to specify UR category separately.

9. The learned Senior counsel appearing on behalf of the petitioner has brought to the notice of this Court the various notifications issued in the other States like Bihar, Punjab and Karnataka. In all these notifications, there is a clear specification as to how many seats are allotted under UR category. The notification must be very specific as to how many seats are allotted for the various categories and it should not be left to the presumption of the candidates. The reason being that even under the UR category, there are various instances, where it is reserved for persons with disability or women candidates. Therefore, apart from the specific reservation made on the community basis, it is very important to specify the number of seats falling under UR category also. This becomes more significant since the reservations do not confine themselves only to vertical reservations, but it also has an element of horizontal reservations. This horizontal reservations fall under the categories of persons with disability, destitute women etc. Under such circumstances, it is important that the notification clearly specifies the number of seats under the various categories including UR category. This Court is not in agreement with the submission made by the learned counsel for the second respondent that whatever seats do not fall under the reserved category must be presumed to fall under UR category and the petitioner ought to have made her application on time.

10. This is an era, where all applications are entertained only online. Therefore, every minute details are required to be given in the Application Form. When the concerned candidate applies pursuant to the notification online, he is expected to give all the correct details, failing which, his candidature is liable to be rejected. In the same way, the notification given by the University must also provide for all particulars and it should not leave anything for assumption. This is clear from the notifications that have been issued by various Universities across the Country and consistently there is a mention with regard to the number of seats, which fall under UR Category. Therefore, in the considered view of this Court, the second respondent-University must be careful enough to issue notifications by specifically mentioning the number of seats that are assigned under each category including the UR category in future.

11. It is brought to the notice of this Court that the applications are now at the stage of scrutiny. Therefore, this Court deems it fit to give an opportunity to the petitioner to submit her application within the time fixed by this Court. No one else has approached this Court seeking for a similar prayer and therefore, this case should not be taken as a precedent by

any other candidate. This relief is given to the petitioner, since she has come before this Court by pointing out to a flaw in the notification, which has prevented her from applying for selection to the post of Assistant Professor in the Law Department.

12. In the result, this writ petition is disposed of in the above terms and the petitioner is directed to submit her application on or before 21.02.2020 to the second respondent-University and the second respondent-University is directed to entertain the application and allow the petitioner to participate in the selection. It is made clear that if the petitioner fails to submit the application within the time stipulated by this Court, the petitioner will not be entitled to participate in the selection thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

KMI

To

1. The Secretary,
Ministry of Human Resource Development,
Union of India,
Shastri Bhawan,
New Delhi-110 001.
2. The Registrar,
Pondicherry University,
(A Central University)
Dr.B.R.Ambedkar Administrative Building,
Kalapet, Puducherry-605 014.

+1 CC to Mr.V.Chandrasekaran, Advocate sr 13193.

+1 C Cto Mr.A.V. Bharathy Advocate sr 13160.

+1 CC to Mr.P.Rajavel, Advocate sr 13301.

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CNR(CO)
SP(18/02/2020)