

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.4125 of 2014

And

M.P.Nos.2 and 3 of 2014

Dr.J.Gandhiappan

... Petitioner

Vs.

1.The Vice Chancellor,
Chairman of the Syndicate,
University of Madras,
Chepauk,
Chennai – 600 005.

2.The Registrar,
University of Madras,
Chepauk,
Chennai – 600 005.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent in Official Communication No.D1(C)/TE/2013/1080/ dated 20.11.2013 and impugned advertisement dated 16.12.2013 published in the website of the University of Madras by the second respondent for filling up of three post of Lecturer/ Assistant Professor

in the Centre for Advance Studies in Botany, Guindy Campus, University of Madras and quash the same and consequently direct the respondents herein to re-designate the petitioner as Lecturer/ Assistant Professor in the Centre for Advance Studies in Botany Guindy Campus, University of Madras as done in the case of 23 Technical Officers.

For Petitioner : Mr.K.Raja
For Respondents : Mr.L.P.Shanmugasundaram

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent in Official Communication No.D1(C)/TE/2013/1080/ dated 20.11.2013 and impugned advertisement dated 16.12.2013 published in the website of the University of Madras by the second respondent for filling up of three post of Lecturer/ Assistant Professor in the Centre for Advance Studies in Botany, Guindy Campus, University of Madras and to quash the same and to consequently direct the respondents herein to re-designate the petitioner as Lecturer/ Assistant Professor in the Centre for Advance Studies in Botany Guindy Campus, University of Madras as done in the case of 23 Technical Officers.

2.The case of the petitioner is that the petitioner belongs to BC community. He was initially appointed as Technical Officer on 22.10.1986 and thereafter his service was regularized as Technical Officer with effect from the date of initial appointment on 22.10.1986. The petitioner was granted selection grade during the year 1996 and special grade during the year 2006. The petitioner completed his Ph.D. from the respondent University during October, 2012.

3.It is the further case of the petitioner that he is fully qualified to be appointed/ redesignated as Lecturer/ Assistant Professor in the Centre for Advance Studies in Botany, Guindy Campus, University of Madras. According to the petitioner, on earlier occasions, some of the Technical Officers working along with him were redesignated as Lecturer/ Assistant Professor. Hence, the petitioner sought for redesignation as Lecturer/ Assistant Professor in the Centre for Advance Studies in Botany, Guindy Campus, University of Madras as per the UGC guidelines, however, his claim was negated by the second respondent vide Official Communication dated 20.11.2013. Thereafter, the advertisement dated 16.12.2013 came to be published. Hence, this writ petition.

4.The learned counsel appearing for the petitioner would submit that as per the UGC guidelines, the petitioner is entitled to be considered for redesignation as Lecturer/ Assistant Professor in the Centre for Advance Studies in Botany, Guindy Campus, University of Madras.

5.The learned counsel appearing for the petitioner would further submit that similar issue has already been dealt with by this Court in the order dated **09.08.2002** made in ***W.P.Nos.19834 and 19835 of 2002 [S.Muruganand and another Vs. Vice Chancellor as the Chairman, Syndicate of Bharathiar University and others]***, the relevant portion of which reads as follows:

"3.The University Grants Commission, in short UGC, has laid down certain norms for redesignation of staff. The conditions required as indicated in paragraph 9 of such guidelines. Para 9 inter alia provides that all redesignation of staff will be processed through a screening committee appointed by Vice-Chancellor.

9(b) provides that an incumbent in the cadre of Technical Officers can opt for

redesignation to the corresponding teaching post in writing to the University authorities. The redesignation so done shall be subject to the conditions given in 9 (a)(i).

Para 9(a)(i) be relevant is extracted in extenso:

a) Existing Staff:

i) The Existing PSOs, SSOs and Sos could be redesignated in the cadres of either the teaching or non-teaching subject to the following conditions :

1.The incumbent satisfies the minimum education qualifications and experience for the post as given in these guidelines.

2.The incumbent has teaching load in his or other departments and participates in other academic activities of the department related to instrumentation.

3.He/she has been selected by an appropriate selection committee of the University for University teachers otherwise, he/she should appear before such a selection committee.

4.He/she gives in writing concurrence to fulfil all the duties, including services, that are assigned to him by the Head of the Centre.

5.Those who do not satisfy the above conditions or do not desire academic designations will be appropriately redesigned in the cadre of Technical officers.

4. The grievance of the petitioners is that even though the petitioners have given such option when the posts are available, the University has refused to consider the case of the petitioners and has instead redesignated the respondents 3 & 4 who are junior to the petitioners as lecturers and has issued an advertisement for recruitment of lectures in the Department of Physics by ignoring the application of the petitioners.

11.A stand has been taken by the learned counsel appearing for the respondent University that no such selection committee is in existence and as such the

petitioners' case cannot be considered. Such a stand has to be merely stated to be rejected. Since relevant guidelines contemplate that technical officers can give option for being redesignated as lecturers, when posts are available, the cases of such technical officers have to be considered by the appropriate selection committee keeping in view the UGC guidelines. Non-constitution of such selection committee is no excuse to ignore the cases of the eligible candidates. If such selection committee is not there, steps should be taken to have such selection committee as quickly as possible and thereafter to consider the case of the petitioners in accordance with the guidelines and in the light of the observations already made in the present order. In the result, it is directed that the case of the petitioners and other eligible candidates should be considered keeping in view their respective qualifications and finally a decision should be taken as expeditiously as possible, preferably within a period of three months from the date of communication of the order. It is made clear that before considering the

case of the petitioner and other eligible candidates, if any, in accordance with UGC guidelines, no further steps should be taken for recruitment of lecturers from other sources."

6.The learned counsel appearing for the petitioner would further submit that the petitioner has filed this writ petition challenging the Official Communication No.D1(C)/TE/2013/1080/ dated 20.11.2013 and the advertisement dated 16.12.2013 published in the website of the University of Madras, however, the vacancies notified in the advertisement were filled up. Hence, this Court may permit the petitioner to exercise his option for redesignation, in accordance with law.

7.The learned counsel appearing for respondents 1 and 2 would submit that the petitioner is a Technical Officer which is a Technical post, whereas, Lecturer/ Assistant Professor is a Teaching post. Hence, there is no possibility for redesignation. He would further submit that earlier the petitioner sought for redesignation as Lecturer/ Assistant Professor in the Centre for Advance Studies in Botany, Guindy Campus, University of Madras and his claim was negated by

the second respondent.

8.The learned counsel appearing for respondents 1 and 2 would further submit that in the absence of any interim order in this writ petition, the vacancies notified in the advertisement were filled up. He would further submit that there is no provision available for redesignation, however, if the UGC guidelines provides for an option, the petitioner may be permitted to exercise his option and the respondents will consider the same in accordance with law.

9.Heard the arguments advanced on either side and perused the materials available on record.

10.The petitioner was initially appointed as Technical Officer on 22.10.1986 and thereafter his service was regularized as Technical Officer with effect from the date of initial appointment on 22.10.1986. The petitioner was granted selection grade during the year 1996 and special grade during the year 2006. The petitioner completed his Ph.D. from the respondent University during October, 2012. Thereafter, the petitioner sought for redesignation as Lecturer/ Assistant Professor in the Centre for Advance Studies in Botany,

Guindy Campus, University of Madras as per the UGC guidelines, however, his claim was negated by the second respondent vide Official Communication dated 20.11.2013. Thereafter, the advertisement dated 16.12.2013 came to be published.

11. Since there was no interim order in this writ petition, the vacancies notified in the advertisement were filled up. Hence, this Court permits the petitioner to exercise his option for redesignation, if the UGC guidelines provides option for redesignation, in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. If the petitioner exercises his option for redesignation, the respondents shall consider the same, as per the UGC guidelines and in accordance with law and shall pass appropriate orders, within a period of six months thereafter.

12. The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

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15.12.2020

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Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

To

1.The Vice Chancellor,
Chairman of the Syndicate,
University of Madras,
Chepauk,
Chennai – 600 005.

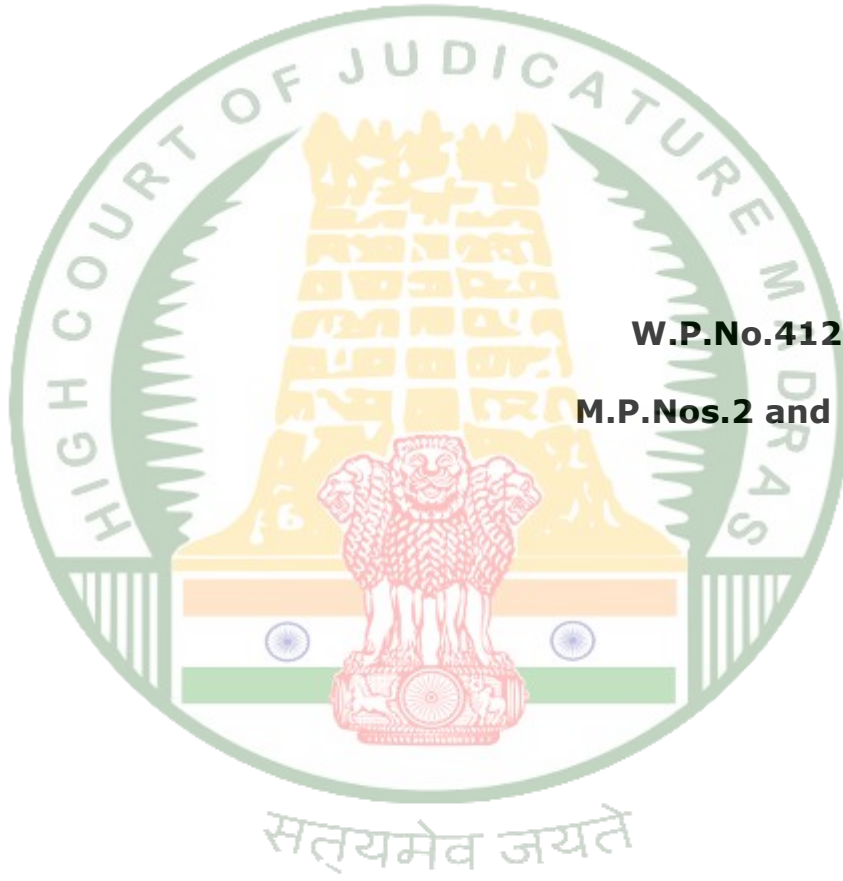
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