



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD) .No.19698 of 2013

and

M.P. (MD) Nos.1 and 2 of 2013

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Dr.A.Deivendran

.. Petitioner

Vs.

1.The Principal Secretary,
Government of Tamil Nadu,
Department of Higher Education,
Secretariat, Fort. St.George, Chennai-9.

2.The Vice-Chancellor,
Madurai Kamaraj University,
Palkalai Nagar, Madurai-625 021.

3.The Registrar,
Madurai Kamaraj University,
Palkalai Nagar, Madurai-625 021.

4.The Director,
Directorate of Distance Education,
Madurai Kamaraj University,
Palkalai Nagar, Madurai-625 021. .. Respondents

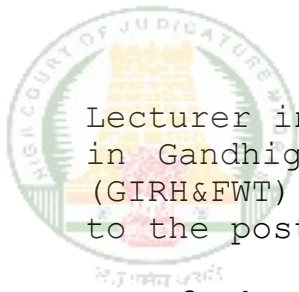
Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents to appoint the petitioner as an Assistant Professor in Sociology in Directorate of Distance Education of Madurai Kamaraj University in pursuance of the notifications dated 27.04.2013.

For Petitioner	:	Mr.C.Masilamani
For R1	:	Mr.M.Lingadurai
		Government Advocate
For R3 & R4	:	Mr.T.Sakthikumarn
For R2	:	No appearance

ORDER

This Writ Petition is filed for issuance of a writ of Mandamus directing the respondents to appoint the petitioner as an Assistant Professor in Sociology in Directorate of Distance Education of Madurai Kamaraj University, in pursuance to the notification dated 27.04.2013.

2.The petitioner states that he has completed B.A., (Sociology), M.A., (Sociology), M.Phil., (Sociology) and P.hd in Sociology, all in a regular mode. The petitioner is working as a



Lecturer in Behavioral Science in the Department of Health Education in Gandhigram Institute of Rural Health and Family Welfare Trust (GIRH&FWT). The case of the petitioner is that he is fully qualified to the post of Assistant Professor in Sociology.

3.The third respondent herein issued an advertisement inviting application from the eligible candidate for the post of Assistant Professors to various departments in the Directorate of Distance Education of Madurai Kamaraj University. Since the petitioner is an eligible candidate for the post of Assistant Professor in Sociology Department, the petitioner applied for the same. After submitting his application, competing for the post of Assistant Professor in Sociology, the petitioner filed a writ petition in W.P.(MD) No. 10392 of 2013 challenging the very recruitment notification on the ground that the reservation policy as per the recruitment notification is contrary to law. In other words, it is contended by the petitioner that the impugned notification treating each department in the directorate of Distance Education as a single unit is illegal and that the whole institution as such should be considered as a single unit. The issue therefore, raised by the petitioner was with reference to the roster to be followed in each department. It is now admitted that this Court by an order dated 29.11.2013 dismissed the writ petition filed by the petitioner after holding that the whole institution as such cannot be treated as a single unit and that to consider each department as a separate unit will be in accordance with the university statute. It is to be noted that the petitioner, during the pendency of the writ petition, obtained an order to withhold the results. While dismissing the writ petition, this Court by order dated 29.11.2013 directed to declare the results.

4.It is stated by the respondents that the university has selected the candidate by name N.Perumal as Assistant Professor in Sociology Department and that he joined duty on 03.12.2013. Hence, a preliminary objection is raised by the learned counsel appearing for the University that the writ petition is liable to be dismissed on the simple ground that the petitioner has not impleaded the candidate who now has been appointed as Assistant Professor. Despite the counter affidavit being filed in the year 2018, the petitioner has not chosen to implead the candidate, who was appointed in the year 2013 and serving in the department for about 8 years.

5.Be that as it may, the learned counsel appearing for the petitioner highlighted the following points. The petitioner is eligible as per qualification prescribed by the university. The selection procedure to be followed by the university was indicated by the respondents themselves in the counter affidavit filed by the university in the earlier writ petition. In para No.10 of the selection procedure that was being followed by the university is indicated. For convenience, para 10 of the counter affidavit filed



"10.I state that the Selection Committee would consider the candidates' merit and ability by way of an Interview which would include testing their writing skill. Marks are awarded under various heads viz., written test (25 marks), teaching competency test (25 marks), interview performance (15 marks), Teaching/Post Doctoral Research Experience (10 marks), Publications (15 marks) and Seminars/Conferences/workshops (10 marks) totalling 100 marks."

6.The learned counsel appearing for the petitioner now relied upon para Nos.11 to 14 of the counter affidavit filed by the respondent in the present writ petition, wherein it is stated as follows:

"11.I respectfully submit that the petitioner had filed a one another writ petition in W.P(MD)No.10392 of 2013 challenging the very same advertisement No.35 to 52/MKU/DDE/2013 dated 27.04.2013 and 28.04.2013 which is impugned herein and sought for a direction directing the university to consider the vacancies in the Directorate of Distance Education as a Single Unit and work out the Roster for reservation and re-advertise the vacancies in the 2nd respondent DDE within a stipulated time. In the above writ petition the respondent university had filed a counter affidavit refuting all the allegations raised by the petitioner in the above writ petition and taking note of the past selection it was stated that the selection committee would consider the candidates merit and ability by way of an interview which would include testing their writing skill and marks are awarded based on under various heads. Viz., Written test(25), Teaching Competency Test (25), interview performance (15 marks), Teaching/Post Doctoral Research Experience (10 marks), publications (15 marks) and Seminars/Conferences/Workshops (10 marks) totaling 100 marks. However, the above averment made in the counter affidavit in W.P.(MD)No.10392 of 2013 was made taking note of the past selections made in the university and as such the same would not be deemed to be a mandatory procedure that should be followed for testing the candidates merit and ability by the Selection committee.

12.I respectfully submit that the above writ petition in W.P.(MD) No.10392 of 2013 came up for hearing before this Court on 29.11.2013 and on hearing the same the Court was pleased to pass the following order:

"... para No.29. In view of the above discussion, these writ petitions stand dismissed

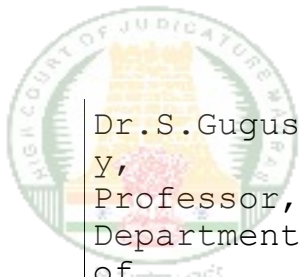


and the results for the interview ordered to be withheld by this Court, by order dated 12.07.2013 are directed to be declared. Consequently, connected miscellaneous petitions are closed. No costs."

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13.I respectfully submit that the criteria behind conducting interview is only to test the candidate's merit and ability individually to select the best of best candidates who would be competent to the said post. Hence, the selection committee rightly assessed each candidate individually and awarded independent marks based on their performance which included Academic record, Research performance, presentation and Assessment of Domain knowledge, Teaching skill and the Interview performance. Accordingly, the petitioner was also awarded with the following marks by the Selection Committee:

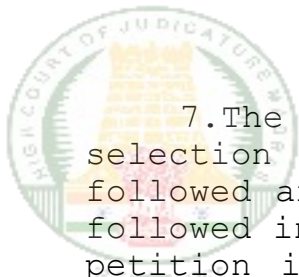
Name of the Member of the Selection Committee	Academic record performance & presentation (50%)	Assessment of Domain Knowledge and Teaching Skills (30%)	Interview Performance (20%)	Remarks
Dr.Kalyani Mathivannan, Vice Chancellor, Madurai Kamaraj University.	25 7	10	10	52
Dr.A.K.Kumar aguru, Vice Chancellor, Manonmiam Sundaranar University.	25 5	3	2	35
Dr.T.Rajendran, Professor and Head Department of Sociology, Gandhi Gram Rural Institute, Gandhigram	10	10	5	25



Dr.S.Gugusam y, Professor, Department of Sociology, Gandhi Gram Rural Institute, Gandhigram.	25	5	5	3	38
Dr.Caroline Nesabai, Associate Professor and Head Department of Sociology, Lady Doak College, Madurai.	25		15	10	50
Dr.A.Ramu, Professor and Head, School of Chemistry, Madurai Kamaraj University.	25	5	8	8	46
Total					246

Hence, the averments made in the writ petition in para No.7 stating that the petitioner teaching competency was not tested in totally false and the petitioner is put to strict proof of the same. Further, it is the prerogative right of the Selection Committee to decide the method of interview to be conducted.

14.I respectfully submit that all the candidates who appeared before the Selection Committee for interview on 11.07.2013 for the above said post were treated equally and underwent the same method of selection as stated above without showing any partiality among them and there was no written test conducted for any of the candidates who appeared before the selection committee for interview. Hence, the allegations raised by the petitioner in para No.7 stating that no written test was conducted for him is baseless and the petitioner is put to strict proof of the same."



7.The learned counsel submitted before this Court that the selection process, as per the earlier counter in para 10, was not followed and that therefore, the entire selection process which was followed in terms of the counter affidavit filed in the present writ petition is vitiated. This Court is able to see that the learned counsel appearing for the petitioner tries to make out a legal point by referring to the principle that there should not be change in game rules in the middle of selection. The learned counsel appearing for the petitioner submitted that the respondent University has no power to appoint candidates by a process, which is contrary to the recruitment notification issued by the respondents in the year 2013. This Court is unable to accept the contentions of the petitioner on the admitted facts. First of all absolutely there is no variation or change in the process of selection. It is not the case of the petitioner that the respondents have not followed the procedure that was contemplated as per the recruitment notification dated 27.04.2013. To establish that, there is change of rules of game, it should be established that the selection was made contrary to any specific Rules or guidelines that was published in the recruitment notification. In this case, the recruitment notification contains the qualification of the candidates with reference to each post and instructions to the candidates with reference to each and every aspects.

8.Having regard to the whole factual background, the learned counsel for the petitioner is unable to point out any violation of recruitment rules. It is not the case of the petitioner that he was misled by the recruitment notification. As such absolutely there is no prejudice that is caused to the petitioner. It is to be noted that the University, in the counter affidavit filed in the earlier writ petition in W.P.(MD)No.10392 of 2013, has mentioned the procedure that was being followed by the University all along. The marks to be awarded under various heads gives an indication that the assessment would be in a fair manner. The University has now adopted a more efficient method to assess merits of the candidates. From the counter affidavit now filed in the present writ petition, this Court is unable to point out any irregularity in the selection process. The position is also clarified by the respondents in the counter affidavit. In the counter affidavit, it is also submitted that the Selection Committee, which is competent, had already interviewed all the candidates independently, including the petitioner and awarded separate marks to assess the merits of each candidate more precisely. The petitioner cannot dictate or command the Selection Committee to grant specific mark. The candidate by viz., Mr.N.Perumal, who has now been appointed as the Assistant Professor, Department of Sociology in Directorate of Distance Education had 8 years of teaching experience on the date of interview and was considered by the Selection Committee as suitable and meritorious.

9.In such circumstances, this Court is unable to find any merit in the petitioner's contention. The conduct and attitude of the petitioner in



filing the writ petition one after another is also noticed by this Court. Though his bonafides in filing the earlier writ petition is clueless, the present writ petition is nothing but triggered by ill motive to stall the selection process. The prayer in the writ petition is for issuance of a Writ of Mandamus to direct the respondents to appoint the petitioner as an Assistant Professor in Sociology is misconceived having regard to the grounds raised by the petitioner in the writ petition. Despite a counter affidavit has been filed stating that the writ petition is not maintainable without impleading the candidate, who was appointed as Assistant Professor in Sociology Department, the petitioner has not come forward to implead the candidate who was appointed pursuant to the recruitment notification. The petitioner filed the present writ petition only on the ground that the petitioner had lost a very good opportunity, due to the change of game rule in the middle of selection process. There is no factual basis for such an argument. Merely because, the petitioner was not selected and somebody-else was selected, the petitioner does not get right to challenge the selection unless the petitioner points out how the selection is illegal. Though the petitioner is not selected that alone is not sufficient to file this writ petition, unless the process of selection is vitiated by any valid ground. Since the petitioner has not even impleaded the selected candidates, this Court cannot consider the merits of his selection. Hence, this Court is unable to entertain the Writ Petition. The writ petition is devoid of merits and liable to be dismissed. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

TO:-

The Principal Secretary, Government of Tamil Nadu,
Department of Higher Education, Secretariat, Fort. St.George,
Chennai-9.

+1CC to M/s.T.SAKTHI KUMARAN, Advocate(SR-26831[F] dated 19/08/2021)
+1 CC to M/s.SPL GP (SR-26764[F] dated 19/08/2021)

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