



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.12.2021

Pronounced on : 23.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No.4944 of 2014

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Dr. S. Ravivarman,
President,
Tamil University SC/ST Teacher Employee
Development Association

:Petitioner

..vs..

1.The University Grants Commission,
rep. By its Secretary,
New Delhi.

2.The State of Tamil Nadu,
rep.by its Secretary,
Department of Tamil Nadu Culture and
Development, Fort St. George,
Chennai -9.

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

4.Tamil University,
Rep. By its Registrar,
Thanjavur -10.

5.Dr.K. Chinnappan

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ in the nature of Quo Warranto, directing the 5th respondent to show cause under what authority he has been and is holding office as Reader / Associate Professor and Professor in the Department of Education and Management in the 4th respondent University.

For Petitioner	: Mr.Ajmalkhan Senior counsel for M/s. Ajmal Associates
For R1	: No appearance
For R2 and R3	: Mr. D. Sasikumar Additional Government Pleader



For R4

: Mr. Isaac Mohanlal

Senior counsel for Mr. M. Senthilkumar

For R5

: Mr. M.E. Ilango

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The present Writ Petition is filed challenging the appointment of 5th respondent as Reader in the 4th respondent University.

2. The facts as stated in the affidavit filed by the writ petitioner is that under section 34 and 34A of the Tamil University Act prescribes the conditions of service of teaching staff is as follows:

"Good Academic record with a doctoral degree of equivalent published work. Evidence of being actively engaged in (i) research or (ii) production of teaching materials, or (iii) innovation in teaching methods.

About 5 years of experience of teaching and / or research provided that at least three of these years were as Lecturer or in an equivalent position.

This condition may be relaxed in the case of candidates with outstanding research work.

Preference will be given to candidates who possess D.Litt. / D.Sc., degree awarded by the Tamil University."

3. In the year 2006, the minimum qualification prescribed by the first respondent, UGC for the appointment to the post of Reader / Associate Professor is as follows:

"i) Good Academic record with a Ph.D., Degree in the concerned / allied / relevant discipline.

ii) 55% of the marks, or equivalent grade wherever grading system is followed at the Master's degree level.

iii) A minimum of five years of experience of teaching and / or research in an academic / research position equivalent to that of Assistant Professor in a University / College or Accredited Research Institution / Industry excluding the period of Ph.D.,



research with evidence of published work and a minimum books and / or research / policy papers in indexed / ISBN / ISSN numbered books / journals and University developed ISBN / ISSN list of journals hosted in the website of the concerned University.

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iv) Contribution to educational innovation design of new curriculum and courses and technology - mediated teaching process with evidence or having guided doctoral candidates and research students.

v) A minimum score as stipulated in the Academic performance Indicator (API) based performance Based Appraisal System (PBAS) developed by UGC in these regulations."

4. The 4th respondent, University has issued an advertisement dated 15.12.2006 in Na. Ka. No. A1/1317/2006 for appointment in various teaching post including one Post of "Reader, in the Department of Education and Management". The said post was allotted to OC Category and as per the prospectus, following qualifications are prescribed:

"i) "Ph.D. in Education, Master's degree in a school with minimum 50% marks and M.Ed., / M.A (Education) with 55% marks and B.Ed., or Ph.D. in Education M.Ed., / M.A. (Education) with minimum 55% marks and B.Ed.,

ii) 6 years experience in the post of Lecturer."

5. After completing the selection process, the 4th respondent selected and appointed the 5th respondent as a Reader on 30.04.2007 and the 5th respondent joined the post on 02.07.2007. The petitioner has filed this petition on behalf of the Tamil University SC/ST Teacher - Employee Development Association and has also applied and was selected as Lecturer / Assistant Professor by an order dated 30.04.2007 and he joined the post on 02.07.2007.

6. The allegation of the petitioner is that the 5th respondent has completed his Ph.D., in Education from the 4th respondent University in January 2011. Thereafter, he came to know that at the time of appointment, the 5th respondent was not possessing the mandatory and minimum qualification that is Ph.D., in Education at that time, when he applied for the appointment to the post of



Reader / Associate Professor. The 5th respondent is not even qualified for appointment in the post of Lecturer in the Department of Education and Management since he did not possess either M.Phil., (Education) Ph.D., (Education) at that time. Thereafter, the petitioner Association submitted several representations to the respondents on 31.05.2011 and to the Hon'ble Chief Minister. Again he submitted two representations, dated 21.01.2013 and 17.04.2013 to the first respondent. The first respondent vide letter dated 28.03.2013 and July 2013 requested the 4th respondent to give suitable reply to the petitioner's representation. In the meanwhile, the 4th respondent has promoted the petitioner as Professor with effect from 02.07.2013 under Career Advancement Scheme. In fact, the screening committee by its report dated 12.08.2013 stated that the 5th respondent is eligible for promotion as Professor under Career Advancement Scheme only with effect from 01.02.2014 that too by making fresh application and after subjecting him to fresh screening and selection process. In the meanwhile, the 5th respondent has passed Ph.D., Degree in Education in the year 2011. Since the Ph.D., for Tamil is not eligible and the 5th respondent has completed Ph.D., Degree (Education) in the year 2011, as on the date of appointment the petitioner is not having Ph.D., Degree in Education, the 5th respondent appointment is invalid. In the meanwhile, the respondents without properly scrutinizing the representations of the petitioner have further promoted the 5th respondent as Professor with effect from 02.07.2013. Aggrieved over the petitioner has filed the present Writ Petition.

7. The fourth respondent has filed a detailed counter denying the allegations. For the allegation averred in Paragraph No.13 wherein the petitioner has stated "good academic record with a Ph.D., Degree in the concerned / allied / relevant discipline" was not at all mentioned in the regulation of UGC. The petitioner has deliberately misleading and misquoting the relevant regulations. The Writ Petition is filed after a lapse of 7 years and the plea that the petitioner came to know about the non-possession of Ph.D., Degree in Education, when 5th respondent has completed Ph.D., (Education) in the year 2011 is incorrect and mis-leading. The fourth respondent has stated that the first respondent, UGC has fixed the minimum qualification for appointment in universities under UGC (Minimum Qualification Required for Appointment and Career Advancement Scheme of Teachers in Universities and institutions Affiliated to it) Regulations 2000. As per the said Rules minimum qualification for the post of Reader in Education are as follows:

"Reader:



Good academic record with a doctoral degree or equivalent published work. In addition to these, candidates who join from outside the university system, shall also possess at least 55% of the marks or an equivalent grade of B in the 7 points scale with latter grades O, A, B, C, D, E and F at the Master's degree level."

8. As per the Appendix -1 of the Statutes of the Tamil University, the following qualifications are fixed for the appointment as Reader.

"Good Academic record with a doctoral degree of equivalent published work. Evidence of being actively engaged in (i) research or (ii) production of teaching materials, or (iii) innovation in teaching methods.

About 5 years of experience of teaching and / or research provided that at least three of these years were as Lecturer or in an equivalent position.

This condition may be relaxed in the case of candidates with outstanding research work.

Preference will be given to candidates who possess D.Litt. / D.Sc., degree awarded by the Tamil University.

Age: Should have completed 30 years but not 45 years. Relaxable if otherwise well qualified."

9. The qualifications prescribed under the National Council for Teacher Education under clause 7 (b) under the heading 'Reader' is as follows:

Reader:

- i) Academic and professional qualifications will be as prescribed for the post of lecturer
- ii) Ph.D. in Education or in a school subject or equivalent published research work
- iii) At least five years' experience as lecturer in teacher education preferably in distance education



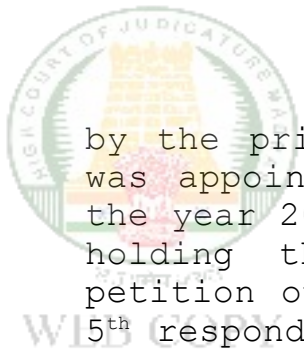
10. The 5th respondent submitted as on the date of the notification for appointment i.e., on 15.12.2006, the 5th respondent was having the following qualifications:

"M.A., in Tamil, M.Phil., in Tamil, Ph.D., in Tamil, M.Ed., M.A., in Journalism and Mass Communication and M.A., (Sociology). The 5th respondent has also made 4 publications and sixteen research papers with 8 years teaching experience in Pope John Paul II College of Education, Pondicherry."

11. The 5th respondent is having Ph.D., Degree and has worked as a Senior Grade Lecturer in Tamil in Pope John Paul College of Education, Reddiarpalayam, Pondicherry for a period of eight years. He is also having Ph.D., Degree in Tamilology in the 2006 and he is fully qualified for the post of appointment as Reader. Hence, all the allegations are incorrect and misleading the Court. As per the Career Advancement Scheme of the first respondent in Clause No.6.4.14, the 5th respondent is duly qualified for the post of Professor. There are no stipulations for the incumbent, three years of service as Assistant Professor after completing the Ph.D., Degree in relevant subject. But the 5th respondent has completed six years of service as Assistant Professor as on 02.07.2013. Therefore, the 5th respondent promotion is valid. The screening Committee verified all the credentials of the 5th respondent and as per the UGC norms in point of 6.4.14, the Screening Committee has held the 5th respondent has completed Ph.D., Degree at the time of his appointment. Finally, the Screening Committee has concluded the 5th respondent is having adequate qualification and service to be considered for promotion. Thereafter, the 5th respondent has also faced the interview before the Selection Committee and the Selection Committee has recommended for granting promotion. Thereafter, the papers were placed before the Syndicate of the University wherein it was decided to grant promotion to the 5th respondent with effect from 02.07.2013. Therefore, the promotion of the 5th respondent is perfectly valid.

12. Heard Mr. Ajmal Khan, learned Senior counsel appearing for the petitioner and Mr. D. Sasikumar, learned Additional Government Pleader appearing for the respondents 2 and 3 and Mr. Isaac Mohanlal, learned Senior counsel appearing for 4th respondent and Mr. M.E. Ilango learned Counsel appearing for 5th respondent.

13. The 4th respondent submitted the writ petition is hit



by the principles of delay and latches, since the 5th respondent was appointed on 02.07.2007, but the writ petition was filed in the year 2014. Moreover the 5th respondent was further promoted and holding the post of Vice Chancellor. Therefore the present petition ought to be dismissed. The petitioner submitted that the 5th respondent has completed Ph.D. in Education in the year 2011, which came to the knowledge in the 2011 and then the Association had preferred representation since the same was not considered the present petition is filed. This Court is of the view that the present petition is hit by latches since the promotion was granted on 02.07.2007, then the petitioner had submitted representation in 2011, thereafter after the lapse of three years has filed the present petition in the year 2014. Hence this Court holds the present petition is hit by latches.

14. The respondents submitted that the writ petitioner is an Association represented by its President namely Dr. S. Ravivarman. But the affidavit is filed as if the President has filed in individual capacity and has also averred that he had applied for appointment to the post of Lecturer / Assistant Professor in the Department of Education and Management and was appointed on 02.07.2007 and therefore the petitioner / the individual has personal interest coupled with malafide intention.

15. The petitioner submitted that the UGC Regulations in Notification No.F.3-1/2000 (PS), March 2000 has given a minimum qualification for the post of Professors / Readers / Lecturers. The relevant portion applicable to the present issue is "Reader" under clause 1.3.2., which states that "Good academic record with a doctoral degree or equivalent published work and five years of teaching experience". The petitioner states that the Tamil University has issued a notification and it has prescribed as under:

" இணைப் பேராசிரியர் பணியிடம் :

(i) *Ph.D., in Education, Master's degree in a school with minimum 50% marks and M.Ed., M.A., (Education) with 55% marks and B.Ed.,*

or

Ph.D., in Education M.Ed., M.A.(Education) with minimum 55% marks and B.Ed.,

(ii) *6 years experience in the post of Lecturer."*

16. The contention of the petitioner is that the
<https://hcservices.ecourts.gov.in/hcservices/>



University has prescribed the qualification as "Ph.D. in Education" as qualification but the 5th respondent has only Ph.D. in Tamilology (Drama) and therefore the 4th respondent is not qualified person. The fourth respondent denied the said contention and submitted that the Tamil University has never published such notification, the alleged notification is false, forged and misleading. The 4th respondent submitted that the Tamil University has prescribed the qualification as "Good Academic record with a doctoral degree of equivalent published work. Evidence of being actively engaged in (i) research or (ii) production of teaching materials, or (iii) innovation in teaching methods". Therefore, by going through the original / correct prescription of qualification by both the UGC and Tamil University, that the Reader can be appointed if the candidate is having good academic record with Doctoral Degree or equivalent published work. Admittedly, the fifth respondent is having Ph.D., Degree in Tamilology. The plea raised by the petitioner that the fifth respondent has Ph.D., in Tamilology that too Drama which is not valid. This plea is rejected since UGC regulations or the Tamil University regulations has not prescribed any such alleged qualification. Therefore on this angle also the contention of the petitioner is rejected. This Court holds that the 5th respondent is possessing Ph.D. in Tamilology and his appointment is perfectly valid and has not violated any regulations.

17. The next plea put forth by the petitioner is that the appointment was under process there was an amendment which was not taken into account. The amendment in Notification No.F.No.1-1/2002 (PS) Exemption 14/06/2006 reads as under:

1. Short Title, Application and Commencement:-

...

(iii) They shall come into force with immediate effect.

In the University Grants Commission (Minimum Qualifications required for the appointment and Career Advancement of Teachers in Universities and Institutions affiliated to it) Regulation, 2000, wherever the following para occurs:- " NET shall remain the compulsory requirement for appointment as Lecturer even for candidates having Ph.D., Degree. However, the candidates who have completed M.Phil., degree or have submitted Ph.D. thesis in the concerned subject upto 31st December 1993 are exempted from appearing in the NET examination."

should be substituted with the following para:

Institutions affiliated to it) Regulation, 2000,



wherever the following para occurs:- " NET shall remain the compulsory requirement for appointment as Lecturer for those with post-graduate degree. However, the candidates having Ph.D., degree in the concerned subject are exempted from NET for PG level and UG level teaching. The candidates having M.Phil. degree in the concerned subject are exempted from NET for UG level teaching only."

18. In the amendment it has been stated that NET shall be recommended for appointing the candidate as Lecturers. The amendment proposal is that however, the candidates having Ph.D., Degree in the concerned subject are exempted NET for PG level and UG level teaching. The candidates having M.Phil., in the concerned subject are exempted from NET for UG level teaching only. The petitioner has stated that since the 5th respondent is not possessing Ph.D. in the concerned subject and not having NET and therefore his appointment is invalid. The 4th respondent denied and objected to this contention, stating that this is not applicable to the Professor post but applicable for the Lecturer post. The learned Senior Counsel for the 4th respondent compared the original notification with the present amendment. On perusing the same the respondents are right in stating in the year 2000 Notification, the "NOTE" appended to the post of Lecturer it has been stated so and this amendment also states only Lecturer post. Therefore, the plea of amendment is applicable to the Reader post is rejected.

19. The petitioner relied on the paper publication issued after the amendment in the UGC Notification. In the paper publication the 4th respondent has stated that the appointment is as per the UGC Notification. No doubt, the paper publication states as per the UGC publication only and the petitioner is having Ph.D., in Tamilology and therefore, there is no infirmity as claimed by the petitioner.

20. The petitioner contended that in the certificate of Ph.D., Tamilology it has been specifically stated the fifth respondent has joined Drama and this cannot be taken into account it belongs to any education. This plea was denied by the respondents stating that the Ph.D., Degree is in Tamilology. Tamil language consists of இயல், இசை, நாடகம் so the 5th respondent has qualified in Tamilology (Drama) and it is legally valid. Therefore this Court is of the considered opinion that Ph.D. in Tamilology (Drama) is "good academic record with doctoral degree" and the 5th respondent is qualified person and there is no infirmity.



21. The learned Senior Counsel for the 4th respondent relied on the Judgment reported in **2006(11) SCC 731(1) (B. Srinivasa Reddy Vs. Karnataka Urban Water Supply and Drainage Board Employees' Association and others)**, wherein it is held that for the challenge under Writ of quo warranto it is settled principle that the High Court in exercise of its jurisdiction in a matter of this nature is required to determine at the outset as to whether the case has been made out for issuance of quo warranto and the jurisdiction is limited one which can be issued only when the appointment is contrary to the statutory Rules. From the discussion supra, it is evident that the 5th respondent is possessing Ph.D., Degree in Tamilology as on the date of appointment and having 8 years of experience, therefore the 5th respondent is fulfilling the qualification and there is no violation of any statutory Rules and hence, the appointment of the 5th respondent is perfectly valid.

22. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS III)

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/ /2022

Sub Assistant Registrar (CS)

trp

To

1.The Secretary,
University Grants Commission,
New Delhi.

2.The Secretary,
State of Tamil Nadu,
Department of Tamil Nadu Culture and
Development, Fort St. George,
Chennai -9.

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



4.The Registrar,
Tamil University,
Thanjavur -10.

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+1 CC to M/s.M.E.ILANGO, Advocate (SR-40377[F] dated 23/12/2021)
+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-40153[F] dated
23/12/2021)
+1 CC to M/s.SPL GP (SR-40488[F] dated 27/12/2021)

W.P(MD) No.4944 of 2014
23.12.2021

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