



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.15524 and 15525 of 2010
and
M.P.No.1 of 2010

P.Balaguru ...Petitioner (in both WPs)

Vs.

1. University Grant Commission,
Rep. by its Chairman,
Bahadurshah Zafar Marg,
New Delhi - 110 022.
2. The Teachers Recruitment Board,
Rep. by its Chairman,
EVK Sampath Maaligai,
DPI Compound,
College Road, Chennai - 600 006.

...Respondents (in both WPs)

Prayer in W.P.No. 15524 of 2010: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring the University Grants Commission (Minimum Qualifications required for appointment and career Advancement of Teachers in Universities and Institutions affiliated to it) Regulations, 2009 notified on 11.07.2009 as arbitrary and violative of Article 14 and 16 of the Constitution of India in so far as NET/SLET has been made as a minimum qualification for lectures posts without giving specific exemption for candidates who got their M.Phil to 31.12.1993.

Prayer in W.P.No. 15525 of 2010: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to forbear the respondents from insisting on NET/SLET qualification for persons who have passed M.Phil prior to 1993 for being eligible to apply for the post of Assistant Professors in Tamil Nadu Collegiate Educational Service and consequently direct the 2nd respondent to entertain the application of the petitioner for the post of Assistant Professor in Tamil Nadu Collegiate Educational Service pursuant to the notice dated 29.03.2010 issued by the 2nd respondent and consider the petitioner for the said post without imposing the condition of requirement of NET/SLET qualification so that justice may done.



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For Petitioner : Mr.A.S.Mujibur Rahman
(in both WPs)

For Respondents : Mr.P.R.Gopinathan (for R1)
(in both WPs)

Mr.C.Kathiravan (for R2)
(in both WPs)

COMMON ORDER

In the first writ petition in W.P.No.15524 of 2010, the petitioner is praying for a Writ of Declaration, declaring the regulations of University Grants Commission as arbitrary and violative of Articles 14 and 16 of the Constitution of India and in the second writ petition in W.P.No.15525 of 2010, he prays for Writ of Mandamus, to forbear the respondents from insisting on NET/SLET qualification for the persons who have passed M.Phil prior to 1993.

2.The case of the petitioner is that the petitioner possesses M.Phil degree in Economics from Bharathidasan University in the year 1990. While so, he was all along eligible to be appointed for the post of Lecturer/Assistant Professor in the Government Colleges in the respective discipline, since as per the regulations of the University Grants Commission, persons who have obtained M.Phil degree on or before 31.12.1993 were exempted from the requirement of the National Eligibility Test (NET)/State Level Eligibility Test (SLET). However, when the notification for filling up of 1024 posts of Assistant Professors was called for on 29.03.2010, suddenly, even for the M.Phil degree holders prior to 1993, the qualification of NET/SLET was insisted upon. Thereafter, it transpired that the same was done pursuant to the amendment of the regulations by the 1st respondent viz., University Grant Commission, by its proceedings dated 11.07.2009 whereby, the regulations were amended making NET/SLET to remain as the minimum eligibility criteria for all persons except for the candidates who are having Ph.D. degree. Therefore, the petitioner filed the present two writ petitions.

3.The 1st respondent has filed a detailed counter affidavit, whereby it is contended that the University Grants Commission has the power under Section 12 of the University Grants Commission Act, 1956, to fix the minimum qualification for appointment to the various educational posts. In exercise of the said powers, the University Grants Commission framed the regulations and the same has been periodically amended and considering the various development of law including the



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dictum of the Hon'ble Supreme Court, periodically the rules have been amended and finally the amendment impugned was brought into force with effect from 11.07.2009 making it mandatory for every candidate to possess the qualification of NET/SLET except the Ph.D. degree holders. Therefore, the 1st respondent prays that there are no merits in these writ petitions and the same has to be dismissed.

4.Mr.A.S.Mujibur Rahman, learned counsel for the petitioner would submit that the petitioner is challenging the said amendment to regulations inasmuch as the persons similarly situated to that of the petitioner possessing only M.Phil degree have been appointed as Lecturers. Now, by the regulation, the petitioner has been discriminated. Therefore, the impugned regulation cannot stand the test of Articles 14 and 16 of the Constitution of India. He would further submit that there was no rational basis for the University Grants Commission to modify the original concession which it had granted, because the candidates who have passed the M.Phil degree before the year 1993 are already there and there is not going to be any new candidates and once the concession is granted, then automatically the list of eligible candidates are going to be exhausted in a period of time and therefore, the amendment in the year 2009 was absolutely unwarranted and is an arbitrary exercise of powers.

5.He would further submit that even though the University Grants Commission has the legislative competency to enact the rule, the reasons for enacting the same was unwarranted as only a few are candidates who passed the M.Phil degree before 1993 was left out in the year 2009 and therefore, the rule causes grave hardship to the petitioner and prays that the writ petitions may be allowed and rule may be declared as unconstitutional.

6.Per contra, the learned counsel for the 1st respondent relying upon the reasons submitted in the counter affidavit, including the various directives of the Ministry of Human Resources Development, Career Advancement of Teachers and the law laid down by the Hon'ble Supreme Court, being an Expert Body, periodically review the minimum qualification and only in the year 2009, after 16 years of time being granted to the M.Phil holders from the year 1993, the rule was amended. Just because, the petitioner could not secure a regular employment for this long number of years after completion of his M.Phil in the year 1990 till the year 2009 (i.e., for the period of 19 years), the petitioner cannot claim hardship. In any event, he would submit that the hardship to a particular candidate cannot be a ground for testing the validity of the amendment of the regulation.



7.I have considered the rival submissions made on behalf of both sides and perused the materials available on record.

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8.I am unable to agree with the contentions raised by the learned counsel for the petitioner for the following reasons:-

- (i) The University Grants Commission Act, 1956 clothes the 1st respondent with powers to prescribe the minimum qualification of various posts. In exercise of the powers, being the experts, they are the best persons to decide the prescription of NET/SLET as mandatory requirement even for the candidates who possess M.Phil degree before the year 1993. Just because, over a period of time, exemption was granted, that will not in any manner preclude the statutory authorities in revising the qualification. Therefore, there can be no arbitrariness or discrimination which can be claimed by the petitioner.
- (ii) As rightly contended by the learned counsel for the respondents, the petitioner cleared M.Phil in the year 1990, he had 19 long years in which he was eligible and only in the year 2009, the new regulation came up. Therefore, the petitioner cannot even plead serious hardship so as to claim any discrimination under Articles 14 and 16 of the Constitution of India, rather he has to blame himself for not securing a regular employment when the exemption was in his favour.

9.As a matter of fact, the second notification is of the year 2010 after amending the regulations of the University Grants Commission. Therefore, the respondents are rightly insisting the qualification. Therefore, I find no merit in the claim of the petitioners and accordingly, the writ petitions are dismissed. Consequently, the connected miscellaneous petition is closed. However, there will be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
University Grant Commission,
Bahadurshah Zafar Marg, New Delhi - 110 022.



2. The Chairman,
Teachers Recruitment Board,
EVK Sampath Maaligai,
DPI Compound, College Road, Chennai - 600 006.

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+1cc to Mr.A.S.Mujibur Rahman, Advocate SR. No.17360
+1cc to Mr.P.R.Gopinathan, Advocate SR. No.17580
+1cc to Government Pleader SR. No.17416

W.P.Nos.15524 and 15525 of 2010

MG (CO)
PR (28/03/2022)