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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.01.2022

PRONOUNCED ON : 14.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.NOS.9352, 9359, 9364, 9368 & 9698 OF 2021

AND

W.M.P.NOS.9940, 9942, 9945, 9946, 9950, 9951,
9953, 9955, 10282 & 10283 OF 2021

Dr.G.Geetha

... Petitioner in W.P.No.9352 of 2021

Dr.S.Indira Gandhi

... Petitioner in W.P.No.9364 of 2021

Dr.K.Latha

... Petitioner in W.P.No.9359 of 2021

Dr.S.Sudha

... Petitioner in W.P.No.9698 of 2021

Dr.V.Gowri Sree

... Petitioner in W.P.No.9368 of 2021

Vs.

1. The State of Tamil Nadu

Rep. by its Secretary,
Department of Higher Education,
Fort St.George, Chennai 600 009.

2. The Director of Technical Education,
DOTE Campus, Chennai 600 025.

3. The Anna University,
Rep by its Registrar,
Guindy, Chennai 600 025.

4. All India Council for Technical Education,
Rep by its Chairman,
7th Floor, Chanderlok Building,
Janpath, New Delhi 100 011.

... Respondents in all W.Ps

PRAYER in W.P.No.9352 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to

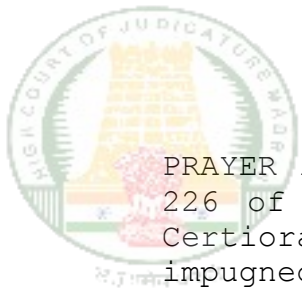


impugned Syndicate Resolutions of the third respondent University Nos.249.13 dated 03.09.2018 and 250.7 dated 09.11.2018, quash the same in so far as it relates to the petitioner herein and further direct the third respondent University to give promotion to the petitioner forthwith as Professor w.e.f. 31.10.2014 in terms of the University Notifications dated 29.06.2017 and 18.07.2017, with all attendant benefits including seniority and arrears of salary and allowances.

PRAYER in W.P.No.9698 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned Syndicate Resolutions of the third respondent University Nos.249.13 dated 03.09.2018 and 250.7 dated 09.11.2018, quash the same in so far as it relates to the petitioner herein and further direct the third respondent University to give promotion to the petitioner forthwith as Associate Professor w.e.f. 18.11.2013 and Professor w.e.f. 18.11.2016 in terms of the University Notifications dated 29.06.2017 and 18.07.2017, with all attendant benefits including seniority and arrears of salary and allowances.

PRAYER in W.P.No.9359 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned Syndicate Resolutions of the third respondent University Nos.249.13 dated 03.09.2018 and 250.7 dated 09.11.2018, quash the same in so far as it relates to the petitioner herein and further direct the third respondent University to give promotion to the petitioner forthwith as Professor w.e.f. 19.09.2015 in terms of the University Notifications dated 29.06.2017 and 18.07.2017, with all attendant benefits including seniority and arrears of salary and allowances.

PRAYER in W.P.No.9364 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned Syndicate Resolutions of the third respondent University Nos.249.13 dated 03.09.2018 and 250.7 dated 09.11.2018, quash the same in so far as it relates to the petitioner herein and further direct the third respondent University to give promotion to the petitioner forthwith as Professor w.e.f. 30.03.2010 in terms of the University Notifications dated 29.06.2017 and 18.07.2017, with all attendant benefits including seniority and arrears of salary and allowances.



PRAYER in W.P.No.9368 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned Syndicate Resolutions of the third respondent University Nos.249.13 dated 03.09.2018 and 250.7 dated 09.11.2018, quash the same in so far as it relates to the petitioner herein and further direct the third respondent University to give promotion to the petitioner forthwith as Professor w.e.f. 23.03.2013 in terms of the University Notifications dated 29.06.2017 and 18.07.2017, with all attendant benefits including seniority and arrears of salary and allowances.

In all W.Ps

For petitioners	:	Mr.Godson Swaminath for M/s.Isaac Chambers
For Respondents	:	Mr.V.Veluchamy, AGP for RR1 & 2 Mr.L.P.Shanmugasundaram, Standing Counsel for R3 No appearance for R4

COMMON ORDER

These writ petitions have been filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned Syndicate Resolutions of the third respondent University Nos.249.13 dated 03.09.2018 and 250.7 dated 09.11.2018, quash the same in so far as it relates to the petitioners herein and further direct the third respondent University to give promotion to the petitioners forthwith as Professor w.e.f. 23.03.2013, 30.03.2010, 19.09.2015, 18.11.2016, 31.10.2014, respectively, in terms of the University Notifications dated 29.06.2017 and 18.07.2017, with all attendant benefits including seniority and arrears of salary and allowances.

2. When these writ petitions are taken up for hearing, the learned counsel for the petitioners would submit that the claim and the issues raised in these writ petitions are directly covered by the detailed decision of this Court in a batch of writ petitions in W.P.Nos.30069 of 2019 etc., dated 19.03.2021. The operative portion of the order of this Court as found in paragraph Nos. 47 to 50, are extracted hereunder:



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"47. In the conspectus of the above discussion, this Court is of the considered view that the additional qualifications (eligibility criteria) introduced under the impugned resolutions dated 03.09.2018 and 09.11.2018 cannot be made applicable to these writ petitioners. The arguments that the additional qualifications prescribed have nothing to do with the API score, in the opinion of this Court, are without any merit. Such arguments are made only for the purpose of the case and therefore, liable to be rejected. When this Court is fully convinced that API score is what the minimum requirement prescribed by the AICTE and which has been adopted by the Government and the University, it is not open to the University to introduce any additional qualification by diluting the exemption benefit to the candidates who are otherwise entitled to the exemption of API score for the relevant period.

48. For the candidates who are not entitled to the grant of exemption of API score, the additional qualifications cannot be made applicable only on the ground that the selection of this candidates was already over and the qualifications that were prescribed in the application forms cannot be improved upon, after the candidates were subjected to the selection in pursuance of submission of the application forms by them, containing the eligibility criteria. The citations relied on by the learned senior counsel for the petitioners would be the answer to this conclusion by this Court.

49. In regard to the other issue namely, whether the writ petitioners concerned could be denied the benefit of promotions under CAS on the basis of the evaluation of individual performance as stated above, the over all percentage of 50 marks have been prescribed which is well established by the documents referred to in the earlier part of the decision and in any case, the University has not come up with any concrete submission as to what is the bench mark or the criterion involved for the interview. On the other hand, the averments contained in the counter affidavit filed on behalf of the University would be the admission of fact that the University has been applying different yardstick for different departments. Such varying methods of consideration would not serve the ends of justice uniformly without discrimination. Therefore, the contention on behalf of the University



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that on the basis of individual performance, the committee has taken decision with reference to the publication of research papers of each of the candidates is to be discountenanced as unsustainable in law. In the circumstances, a candidate securing over all 50% of the mark regardless of the marks secured in the interview need to be given the benefit of promotion under CAS.

50. In the above circumstances that the impugned proceedings viz., the Syndicate Resolutions of the 3rd respondent University Nos.249.13 and 250.7 dated 03.09.2018 and 09.11.2018 respectively are hereby set aside only insofar as it is made applicable retrospectively to these writ petitioners in respect of the selection for promotion under CAS in pursuance of inviting application vide communications dated 29.06.2017 and 18.07.2017 and all the Writ Petitions are disposed of accordingly. The respondent University is directed to pass appropriate orders by granting promotions to these writ petitioners, as per their entitlement on the basis of then existing eligibility criteria, if there are no other legal impediment against them and such order should be passed within a period of four weeks from the date of receipt of a copy of the order. No costs. Consequently, connected miscellaneous petitions are closed."

3. The learned counsel for the petitioners Mr.Godson Swaminath would submit that these petitioners are also belonging to the teaching faculty of the Anna University and the directions as contained in the above batch of writ petitions are liable to be applied to their claims as well. According to the learned counsel, writ appeals have been filed as against the judgment of this Court in W.A.Nos.1308 of 2021 etc. But, eventually, the writ appeals came to be withdrawn by the University on 28.04.2021, on the ground that the University has decided to implement the orders passed by this Court. Therefore, the learned counsel would request this Court to declare that the ratio laid down by this Court in the above mentioned batch of writ petitions would stand squarely applicable to the claim of these writ petitioners as well.

4. The learned Standing Counsel Mr.L.P.Shanmugasundaram, appearing for the third respondent, also have no quarrel with the submission made on behalf of the petitioners.



5. In view of the same, the decisions and the ratio laid down in the above mentioned batch of writ petitions will also be made applicable to the claim of these petitioners as well.

6. Accordingly, these writ petitions stand disposed of in terms of the directions of this Court as contained in paragraph Nos.47 to 50 in W.P.Nos.30069 of 2019 etc. dated 19.03.2021.

7. In the above circumstances, the impugned proceedings viz., the Syndicate Resolutions of the 3rd respondent University Nos.249.13 and 250.7 dated 03.09.2018 and 09.11.2018 respectively are hereby set aside only insofar as it is made applicable retrospectively to these writ petitioners in respect of the selection for promotion under CAS in pursuance of inviting application vide communications dated 29.06.2017 and 18.07.2017.

8. The respondent University is directed to pass appropriate orders by granting promotions to these writ petitioners, as per their entitlement on the basis of then existing eligibility criteria, if there are no other legal impediment against them and such order should be passed within a period of four weeks from the date of receipt of a copy of the order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gsk

To

1. The Secretary,
The State of Tamil Nadu,
Department of Higher Education,
Fort St.George, Chennai 600 009.
2. The Director of Technical Education,
DOTE Campus, Chennai 600 025.
3. The Anna University,
Rep by its Registrar,
Guindy, Chennai 600 025.



4. The Chairman,
All India Council for Technical Education,
7th Floor, Chanderlok Building,
Janpath, New Delhi 100 011.

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+1cc to M/s.Isaac Chambers, Advocate, S.R.No.10002

+1cc to the Government Pleader, S.R.No.9519

W.P.Nos.9352, 9359, 9364, 9368 & 9698 of 2021 and
W.M.P.Nos.9940, 9942, 9945, 9946, 9950, 9951,
9953, 9955, 10282 & 10283 of 2021

RGN(CO)
RLP(11/04/2022)