



W.P.Nos.13416 of 2021, 8363 and 11351 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 26.10.2022

Orders Pronounced on : 01.11.2022

Coram:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.Nos.13416 of 2021, 8363 and 11351 of 2022

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W.M.P.Nos.14276 and 14278 of 2021, 10887, 10889, 8331 and 8334 of 2022

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Dr.K.Srinivasan .. Petitioner in W.P.Nos.13416 of 2021 and 11351 of 2022

Dr.L.Senthilkumar .. Petitioner in W.P.No.8363 of 2022

Vs.

1. The Registrar,
Bharathiar University,
Coimbatore-641 046.

.. First respondent in all the Writ Petitions

2. Dr.L.Senthilkumar

.. Second respondent in W.P.No.13416 of 2021

2. The Audit Coordinator,
Registrar's Office,
Bharathiar University,
Coimbatore-641 046.

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3. The Assistant Director,
Local Fund Audit,
Bharathiar University,
Coimbatore-641 046.

.. Second and third respondents in W.P.No.11351 of 2022

2. Dr.K.Srinivasan

.. Second respondent in W.P.No.8363 of 2022

Writ Petition No.13416 of 2021 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in his proceedings No.E1/2021/8840-1, dated 18.06.2021 appointing the second respondent as Head of the Department of Physics in the first respondent-University and to quash the same as being illegal, unsustainable in law and for a consequential direction to permit the petitioner to continue as the Head of the Department of Physics, Bharathiar University, Coimbatore, being the senior-most in the Department of Physics in the first respondent-University.

Writ Petition No.8363 of 2022 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records from the first respondent in his proceedings No.E1/613/2008, dated 12.01.2008 and consequential order of the first respondent's proceedings No.E1/2016/8867-6, dated 30.06.2016 pertaining to appointment of the second respondent as Head of the Department, Physics Department forthwith, quash the same and direct the first respondent to permit the petitioner to continue as the Head of the Department of Physics, Bharathiar University, Coimbatore, being the second and immediate senior-most in the Department of Physics in the first respondent/University.

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Writ Petition No.11351 of 2022 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records of the third respondent in his proceedings dated 18.03.2022, communicated through letter in Ref.No.27/A1/2022, dated 22.03.2022 and consequential letter of the first respondent in his proceedings No.E1/2021/17730-3, dated 22.04.2022 and to quash the same as being illegal and unsustainable in law.

For petitioner in

W.P.Nos.13416 of 2021

and 11351 of 2022 &

for Respondent 2 in

W.P.No.8363 of 2022

: Mrs.N.Kavitha Rameshwar

For petitioner in

W.P.No.8363 of 2022 &

for Respondent 2 in

W.P.No.13416 of 2021

: Mr.P.Saravanan

For Respondents in

W.P.No.11351 of 2022 &

for respondent 1 in both

W.P.Nos.13416 &

8363 of 2022

: Mr.C.Vigneswaran,

Assisted by

Mr.P.Vasanth Kumar

COMMON ORDER



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W.P.No.13416 of 2021 has been filed by Dr.K.Srinivasan challenging the appointment of the second respondent (Dr.M.Senthil Kumar) as the Head of the Department (Department of Physics) in the first respondent-Bharathiar University by replacing him under the impugned order of the first respondent, dated 18.06.2021.

2. W.P.No.11351 of 2022 has also been filed by Dr.K.Srinivasan, challenging the communication of the first respondent, dated 22.04.2022 , based on the audit objection raised by the Assistant Director, Local Fund Audit, Bharathiar University, vide Audit Slip No.17/2020-21, under which, Dr.K.Srinivasan's initial appointment to the post of Reader, has been questioned on the ground that the post of Master Technician, having the scale of pay of Rs.2000-60-2300-75-2900 may not be on par with the post of Lecturer having the scale of pay of Rs.2200-75-2800-100-4000. Under the impugned communication, dated 22.04.2022, Dr.K.Srinivasan has been directed to clarify the equivalence of the post of Master Technician on par with the post of Lecturer with solid evidence from the Notification of UGC and the adoption of G.O. from the Government of Tamil Nadu to enable him to continue his service in Bharathiar University under the old pension scheme of the Bharathiar University.

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3. W.P.No.8363 of 2022 has been filed by Dr.L.Senthil Kumar, who is the second respondent in W.P.No.13416 of 2021 and whose appointment as Head of Department (Physics), is challenged by Dr.K.Srinivasan in the said Writ Petition.

4. Dr.L.Senthil Kumar has filed W.P.No.8363 of 2022 challenging Dr.K.Srinivasan's initial appointment to Bharathiar University, by order of the University, dated 12.01.2008 and he has also challenged the consequential proceedings of the University, dated 30.06.2016, by which Dr.K.Srinivasan was placed as Head of Department (Physics) with effect from 01.07.2016, until further orders.

5. Since the issues involved in all the three Writ Petitions, are connected to each other, they are disposed of by this common order.

6. Henceforth, for easy reference and understanding, the respective parties/authorities, shall be referred to either by their names or by the name of the authority concerned.

7. The following are the undisputed facts:

(a) Dr.K.Srinivasan was initially appointed as Reader in the Department of



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Physics in Bharathiar University on 12.01.2008 and he has completed his probation on 21.01.2010. Thereafter, he was re-designated as Associate Professor with effect from 22.01.2011 and thereafter, promoted as Professor with effect from 22.01.2014. By order dated 30.06.2016, he was placed as the Head of the Department (Physics) with effect from 01.07.2016 until further orders

(b) Dr.L.Senthil Kumar, who is a junior to Dr.K.Srinivasan was appointed as a Reader in Bharathiar University in the Department of Physics only on 31.01.2009 and was re-designated as Associate Professor with effect from 24.03.2012. He was promoted as Professor with effect from 24.03.2015. By the impugned order dated 18.06.2021 which is the subject matter of W.P.No.13416 of 2021, he was placed as the Head of the Department in Physics with effect from the same date, until further orders.

(c) It is only for the first time through the impugned Audit Objection, dated 22.03.2022 sent by Bharathiar University, Dr.K.Srinivasan has been informed that Assistant Director, Local Fund Audit of Bharathiar University has raised an objection questioning the equivalence of the post of Master Technician having the scale of pay of Rs.2000-60-2300-75-2900 on par with the post of Lecturer having the scale of pay of Rs.2200-75-2800-100-4000. The Bharathiar

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University has informed Dr.K.Srinivasan in the very same communication that upon verifying his Service Register, it is clearly stated that his earlier post of Master Technician prior to joining the Bharathiar University comes under non-teaching / non-vocational category and therefore, he has to clarify the equivalence of the post of Master Technician on par with the post of Lecturer with solid evidences from the notification of University Grant Commission and adoption of G.O. from Government of Tamil Nadu for the continuance of his service and old pension scheme in Bharathiar University.

(d) As per the instructions to the candidates applying for faculty positions, (Professor/Reader/Lecturer), one of the conditions of eligibility is that an aspirant should have 5 years of experience of teaching and / or research excluding the period spent for obtaining the research degrees and has made some measures in the areas of scholarship as evidenced by quality of publication/contribution to educational innovation, design of new courses and curricula. As per section 45(3) of the Bharathiar University Act, 1981, a person appointed as the Head of the Department shall hold office, as such, for a period of three years and shall be eligible for re-appointment. Therefore, Dr.K.Srinivasan who was earlier placed as the Head of the Department, prior to the impugned order dated 18.06.2021, under which, Dr.L.Senthil Kumar was appointed as Head of the Department, is eligible for re-appointment.



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8. The contentions of Dr.K.Srinivasan in his writ petitions namely W.P.No.13416 of 2021 and W.P.No.11351 of 2021 are as follows:

(a) He being a Professor and the senior most in the Department of Physics is indisputably the only person eligible for appointment as the Head of the Department in the Department of Physics. The order appointing Dr.L.Senthil Kumar as the Head of the Department is in violation of section 45 of the Bharathiar University Act, 1981 as well as the Ordinances issued by the University, pursuant to the Act and Statutes. He having declined the offer of being appointed as Dean of Bharathiar University, ought to have been retained as the Head of the Department (Physics) as he is the senior most amongst the Professors in Physics Department.

(b) The order appointing Dr.L.Senthil Kumar as the Head of the Department is vitiated by non application of mind to the Statute and the Ordinances and hence, the said order will have to be set aside as being arbitrary and capricious attracting the rigour of Article 14 and 16 of the Constitution of India.

(c) The Audit Objection raised by the Assistant Director, Local Fund Audit



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which is the subject matter of W.P.No.11351 of 2022 proceeds on a misreading of the recruitment notification, as per which, teaching and/or research experience of five years is the requisite eligibility for the post of reader and he having had more than five years of research experience, at the time of his appointment in the University as early as in the 2008, the local fund audit of the Bharathiar University is now illegally proceeding as if only teaching experience is mandatory for the post of Reader.

(d) The impugned communication issued by Bharathiar University based on queries raised by Assistant Director, Local Fund Audit of Bharathiar University which is the subject matter of W.P.No.11351 of 2022 is vitiated by non-application of mind and hence, liable to be set aside as being arbitrary and capricious attracting the rigour of Article 14 and 16 of the Constitution of India. The said communication is backed by extraneous considerations and is a piece of colourable exercise of power and hence, liable to be set aside.

9. The contentions of Dr.L.Senthil Kumar, who has been appointed as the Head of the Department (Physics) replacing Dr.K.Srinivasan are as follows:

(a) Bharathiar University has appointed him as the Head of the Department only after following the statutory provisions of the Bharathiar University Act, 1981, other Statutes, Ordinances and Syndicate Resolutions.



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(b) Being the next immediate senior to Dr.K.Srinivasan, he has been appointed as the Head of the Department (Physics) to co-ordinate the academic work of the Department and joined the duty on 21.06.2021.

(c) This Court passed an order of interim stay in W.M.P.No.14278 of 2021 in W.P.No.13416 of 2021 by order dated 28.06.2021, against which, he and Bharathiar University filed writ appeals namely W.A.No.1653 and 2480 of 2021 before the Division Bench of this Court, wherein the writ appeals were disposed of without causing any interference in the interim order, with liberty granted to him as well as to Bharathiar University to contest the writ petition itself on all the legal grounds available to them

(d) The impugned order passed by Bharathiar University dated 12.01.2008 appointing Dr.K.Srinivasan as Reader and consequential letter of the University dated 30.06.2016 appointing Dr.K.Srinivasan as the Head of the Department (Physics) is illegal and contrary to law.

(e) Dr. K.Srinivasan did not have requisite qualifications for being eligible to be appointed as a Reader in the year 2008 as he did not have five years of teaching experience as required under the Notification/Rules.



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(f) Dr.K.Srinivasan can hold the post of the Head of the Department only for a period of three years and his term having come to an end, he has been appointed by Bharathiar University as Dean of the University which is perfectly legal.

(g) The Audit Objection raised by Assistant Director, Local Fund Audit against the appointment of Dr.K.Srinivasan as Reader which was his initial appointment is only in accordance with the Notification/Statute/Ordinances.

(h) The position of the Head of the Department as can be seen from the Ordinances is one of responsibility and no additional financial emoluments accrued to the said position. There is no dispute about the fact that he is the immediate and next senior most Professor in the Department of Physics and as such, he is entitled to hold the position of the Head of the Department. He has taken charge from Dr. K.Srinivasan as the Head of the Department and therefore, he being relegated to the position of an ordinary Professor will not arise. If that is allowed to happen, his legitimate right to serve the University as the Head of the Department will be defeated.

10. The contentions of the Bharathiar University are as follows:

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(a) They have made a replacement of Headship on administrative basis.

Dr.K.Srinivasan who is the senior most Professor in the Physics Department was placed as a Dean and the next immediate senior Professor Dr.L.Senthil Kumar was placed as the Head of the Department (Physics). Therefore, there is no discrimination in the appointment of Dr.L.Senthil Kumar as the Head of the Department.

(b) Having been promoted as a Dean, who will have overall control of other Departments as well, Dr.K.Srinivasan should not have any grievance for appointing Dr.L.Senthil KUMar as the Head of the Department (Physics).

(c) As per the notification issued by the University on 29.09.2007 inviting application for appointment to the post of Reader, it stipulates that five years of experience of teaching and/or research excluding the period spent for obtaining the research degrees is essential. The Audit objection was raised with regard to Dr.K.Srinivasan's initial appointment as Reader on the ground that he did not possess five years of teaching experience. Dr. K.Srinivasan has completed M.Sc Physics in the year 1991 and joined in Anna University as a Junior Research Fellow and then worked as a Senior Research Fellow in Crystal Growth Centre till 1995. On 01.12.1995, he joined as a Master Technician (non-teaching) in the Physics Department, Alagappa University, Karaikudi and then on 27.09.2006, he

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was appointed as a Lecturer in the Department of Physics and worked upto 21.01.2008. Therefore, Dr.K.Srinivasan may not have had five years of teaching experience and that is the reason for the Audit objection which is the subject matter of W.P.No.11351 of 2022. Upon verification of Dr.K.Srinivasan's Service Register, he has possessed only two years of research experience plus one year and four months of teaching experience as a Lecturer in the Alagappa University at the time of his initial appointment.

(d) If aggrieved by appointment of Dr.L.Senthil Kumar, by order dated 18.06.2021, Dr.K.Srinivasan has got alternate appellate statutory remedy. Without exercising the same, Dr.K.Srinivasan has directly filed writ petitions which is not maintainable.

(e) Even though Dr.K.Srinivasan may be eligible for reappointment as the Head of the Department, no vested right is given to him for reappointment as the Head of the Department. Only based on administrative exigencies and considering his seniority, he was replaced and appointed as a Dean and in his place, Dr.L.Senthil Kumar was appointed as the Head of the Department (Physics).

(f) Dr.K.Srinivasan has not approached this Court with clean hands and therefore, he is not entitled for any relief.



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(g) Dr.L.Senthilkumar who has filed W.P.No.8363 of 2022 is also not entitled for any relief on the ground of laches. The appointment of Dr.K.Srinivasan as a Reader was in the year 2008 and his earlier appointment as the Head of the Department was in the year 2016 and therefore, after the lapse of a long number of years, Dr.L.Senthil Kumar cannot challenge Dr.K.Srinivasan's initial appointment as the Reader. Hence, the writ petition filed by Dr.L.Senthilkumar is not maintainable.

11. Heard Mrs.Kavitha Rameshwar, learned counsel appearing for Dr.K.Srinivasan, Mr.C.Vigneswaran, learned counsel assisted by Mr.P.Vasantha Kumar, learned Standing Counsel appearing for Bharathiar University and Mr.P.Saravanan, learned counsel appearing for Dr.L.Senthil Kumar.

12. The respective counsels reiterated the contentions of the respective parties. Mrs.Kavitha Rameshwar, learned counsel for Dr.K.Srinivasan drew the attention of this Court to the various documents/statute/rules filed along with the writ petitions filed by Dr.K.Srinivasan in order to substantiate the case of Dr.K.Srinivasan. Similarly, Mr.C.Vigneswaran, learned counsel assisted by Mr.P.Vasantha Kumar, learned Standing Counsel appearing for Bharathiar University also drew the attention of this Court to the documents in support of



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Bharathiar University's contentions. Mr.P.Saravanan, learned counsel appearing for Dr.L.Senthil Kumar also reiterated the contents of the affidavit filed in support of W.P.No.8363 of 2022 and also relied upon the Audit objection which is the subject matter of W.P.No.11351 of 2022 in support of Dr.L.Senthil Kumar.

Discussion:

13. Dr.K.Srinivasan was appointed as a Reader which was his entry level post in Bharathiar University on 12.01.2008. He has also been subsequently promoted and after being a Professor in the Physics Department, based on his seniority, he was also appointed as the Head of the Department (Physics) in the year 2016. He was holding the said post till the impugned order dated 18.06.2021 which is the subject matter of W.P.No.13416 of 2021 came to be passed under which, Dr.L.Senthil Kumar has been appointed as the Head of the Department (Physics) replacing him. Dr.K.Srinivasan has been appointed as a Dean of the University, subsequent to the appointment of Dr.L.Senthil Kumar as the Head of the Department.

14. Learned counsel appearing for Dr.K.Srinivasan, on instructions would submit that Dr.K.Srinivasan is not interested in being appointed as a Dean and therefore, he must be allowed to continue to hold the post of the Head of the Department (Physics). Admittedly, Dr.K.Srinivasan is the senior most Professor in



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the Physics Department of the University and Dr.L.Senthilkumar is a junior to him and is next to him in the order of seniority.

15. Section 45 of the Bharathiar University Act, 1981 deals with the terms and conditions of service of Head of Departments. Section 45(3) of the Act makes it clear that a person appointed as Head of the Department shall hold office as such, for a period of three years and shall be eligible for reappointment. Therefore, it is clear that Dr.K.Srinivasan is eligible for reappointment. Dr.K.Srinivasan has also opted out for being appointed as a Dean, though the said post may be a promotion post. Having opted out for being posted as Dean, the Head of the Department position ought not to have been given to Dr.L.Senthil Kumar, who is admittedly a junior to Dr.K.Srinivasan. As seen from the provisions of the Bharathiar University Act, 1981, there is no prohibition for any person being appointed as a Dean to opt out of the said post. Infact, proviso to section 46 makes it clear that if at any time, when there is no professor in a faculty, the Vice Chancellor shall exercise the powers of the Dean of the faculty. Therefore, even if Dr.K.Srinivasan has not taken charge as a Dean, pursuant to his appointment on account of his unwillingness, the Vice Chancellor of the University is having the powers to exercise the powers of the Dean of the Faculty.



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16. Section 45 of the Bharathiar University Act reads as follows:

"45. Terms and conditions of service of heads of departments.- (1) Each Department of the University shall have a Head who shall be a Professor or Director and whose duties and function and terms and conditions of appointment shall be prescribed by the ordinances:

Provided that, if there is more than one Professor in any Department, the Head of the Department shall be appointed in the manner prescribed by the ordinances:

Provided further that, in a Department where there is no Professor, an Assistant Professor or a Reader may be appointed as Head of the Department in the manner prescribed by the ordinances.

(2) It shall be open to a Professor or Assistant Professor or Reader to decline the office of appointment as Head of the Department.

(3) A person appointed as Head of the Department shall hold office as such for a period of three years and shall be eligible for reappointment.

(4) A Head of the Department may resign is office at any time during his tenure of office.



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(5) A Head of the Department shall perform such functions as may be prescribed by the ordinances."

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17. Dr.K.Srinivasan will retire from service in the year 2027, whereas Dr.L.Senthilkumar will retire from service in the year 2037. Therefore, after the retirement of Dr.K.Srinivasan, naturally Dr.L.Senthil Kumar who is the next in seniority can be made as the Head of the Department (Physics). Therefore, even if Dr.K.Srinivasan is reappointed as the Head of the Department for another period of three years as per the Statute, Dr.L.Senthil Kumar's carrier progression will not be affected. Dr.K.Srinivasan is also not involved in any disciplinary proceedings initiated by the Bharathiar University and his past track record seem to be unblemished. He has been granted several promotions before being placed as the Head of the Department (Physics) in the year 2016. While that be so, the question of his replacement by Dr.L.Senthil Kumar who ranks next in seniority to him will not arise, that too, when Dr.K.Srinivasan has opted out to become a Dean of the faculty.

18. No reasons have been given by Bharathiar University in its impugned proceedings dated 18.06.2021 appointing Dr.L.Senthil Kumar as the Head of the Department for replacing Dr.K.Srinivasan. Therefore, principles of natural justice has been violated by the University. Being eligible for reappointment as the



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Head of the Department, the University ought to have heard Dr.K.Srinivasan's contentions and only thereafter, passed an order appointing Dr.L.Senthil kumar after giving a finding based on sound reasoning that the contentions of Dr.K.Srinivasan does not deserve any merit. In a hurried manner for reasons best known to them, the University has replaced Dr.K.Srinivasan with Dr.L.Senthil Kumar as the Head of the Department, that too, without hearing him. Since no reasons have been given for appointing Dr.L.Senthil Kumar as the Head of the Department, despite the fact that Dr.K.Srinivasan was interested in reappointment and was also eligible for the same, the question of exercising the alternate appellate remedy by Dr.K.Srinivasan as claimed by the University will not arise. Having violated the principles of natural justice, Dr.K.Srinivasan has rightly approached this Court under Article 226 of the Constitution of India to redress his grievance. Dr.K.Srinivasan has not suppressed any material fact in his writ petitions. Therefore, the contentions of the University that he has approached the court with unclean hands is rejected by this Court.

19. Ordinance 2001 of the Bharathiar University, pursuant to clause 1 of section 45 of the Bharathiar University Act, 1981 which deals with the mode of appointment also makes it clear that each Department/University shall have a head who shall be a Professor or Director, provided that if there is more than one professor in any department, seniority shall be followed in the appointment



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of Head of the Department by the Vice Chancellor and it reads as follows:

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"I.Mode of appointment:

Each Department of the University shall have a Head who shall be a Professor or Director. Provided that if there is more than one Professor in any department, the seniority shall be followed in the appointment of Head of the Department by the Vice-Chancellor.

Provided further that in a Department where there is no Professor, the seniority shall be followed in the cadre of Reader in the appointment of Head of the Department by the Vice-Chancellor.

It shall be open to a Professor or Reader to decline the offer of appointment as Head of the Department in which case the next senior in position shall be considered for appointment as Head of the Department by the Vice-Chancellor."

20. Dr.K.Srinivasan being the senior most Professor in Physics, , will necessarily have to be appointed as the Head of the Department. Only where a Professor has declined the offer of appointment as the Head of the Department, the next senior in position shall be appointed as the Head of the Department by the Vice Chancellor. In the case on hand, admittedly, Dr.K.Srinivasan has not declined the offer of being reappointed as the Head of the Department and therefore, he has rightly challenged the impugned proceedings of the University



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appointing Dr.L.Senthil Kumar as the head of the Department in his place.

Dr.L.Senthil Kumar will also not lose his turn for being posted as the Head of the Department, once Dr.K.Srinivasan retires or decides to decline reappointment in the near future.

21. Insofar as the Audit objection with regard to Dr.K.Srinivasan's initial appointment as a Reader is concerned, the same will also have to be rejected by this Court for the following reasons:

(a) The instructions to the candidates applying for faculty position (Professor/Reader/Lecturer) makes it clear that for the post of Reader, a candidate should have five years of experience of teaching and/or research excluding the period spent for obtaining the research degrees and has made some measures in the areas of scholarship as evidenced by quality of publication/contribution of educational innovation, design of new courses and curricula.

(b) Dr.K.Srinivasan in his application dated 31.10.2007 clarified that the post of Master Technician is not a non-teaching post. It is a teaching post including one involving research work. Dr.K.Srinivasan's appointment order dated 23.11.1995 as Master Technician clarifies that apart from giving lectures to the students of the Department, his work shall include undertaking/guiding



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research and extension activities. Therefore, the certificates and testimonials produced/attached along with his application also clarifies that he had teaching experience of more than five years. Bharathiar University recruitment notification in the year 2007 also clearly reveals that for the post of reader, a candidate should have five years of experience of teaching and/or research. Having had more than five years of experience in both teaching and research, Dr.K.Srinivasan was rightly found to be eligible in his initial appointment as a Reader in Bharathiar University in the year 2008. He has also been promoted thereafter and after becoming a Professor and being a senior most Professor was also appointed as the Head of the Department (Physics) in the year 2016.

(c)The Audit objection which has been raised after a lapse of almost 15 years is arbitrary and without any basis, has to be necessarily quashed. The question of producing the equivalence between the post of Master Technician and the post of Lecturer of Bharathiar University as seen from their letter dated 22.04.2022 is only an after-thought issued with malafide motives to unlawfully sustain the proceedings dated 18.06.2021 appointing Dr.L.Senthil Kumar as the Head of the Department in place of Dr.K.Srinivasan. Having been appointed in the year 2008 and being promoted to various positions thereafter and also being posted as the Head of the Department in the year 2016, the audit objections have to be quashed as being arbitrary and capricious as it is a colourable



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exercise of power for reasons best known to the University.

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(d) The writ petition filed by Dr.L.Senthil Kumar seeking for quashing of the proceedings, under which Dr.K.Srinivasan was initially appointed as a reader in the year 2008 as well as seeking for quashing of Dr.K.Srinivasan's appointment as Head of the Department in the year 2016 is a vexatious litigation and has been filed only as an after-thought to illegally circumvent Dr.K.Srinivasan's reappointment as the Head of the Department (Physics).

22. The writ petition filed by Dr.L.Senthil Kumar has also got to be dismissed on the ground of laches as Dr.K.Srinivasan was initially appointed as a reader in the year 2008 itself, whereas DR.L.Senthil Kumar who is his colleague ever since 2009, has thought it fit to file a writ petition challenging Dr.K.Srinivasan's appointment only in the year 2022, that too, after he was appointed as the Head of the Department under the proceedings of University dated 18.06.2021. Dr.L.Senthil Kumar has not approached this Court with clean hands. Admittedly, he is a Junior to Dr.K.Srinivasan and therefore, he does not have any vested right to seek appointment as the Head of the Department (Physics).

23. The judgments relied upon by the learned standing counsel appearing



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for the Bharathiar University namely (a) A Division Bench Judgment of Patna High Court in the case of ***Prof. Dr.Jyoti Shekhar vs. State of Bihar and others*** reported in ***2009 SCC Online Pat 16***; and (b) A decision of the Delhi High Court in the case of ***Prof. R.K.Sharma vs. University of Delhi and others*** reported in ***2021 SCC Online Del 5284*** are not applicable to the facts of the instant case as in the case on hand, the post of the Head of the Department is available, as per the statutory Rules, though there may not be any financial emoluments attached to it. In the decisions referred to supra, the Head of the Department was not prescribed in the Statute/Rules and only for the said reason, it was held in those decisions that the petitioners therein did not have any vested right for being appointed as Head of the Department.

24. When Ordinance 2001 of the Bharathiar University issued pursuant to clause 1 of section 45 of the Bharathiar University Act, 1981 makes it clear that when there are more than one Professor in any Department, the seniority shall be followed in the appointment of the Head of the Department, Dr.K.Srinivasan, ought to have been continued as the Head of the Department (Physics) as admittedly, he is the senior most amongst the Professors in the said Department.

25. For the foregoing reasons, W.P.No.13416 of 2021 and W.P.No.11351 of 2021 filed by Dr.K.Srinivasan will have to be allowed and the impugned



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proceedings dated 18.06.2021 as well as the impugned communication dated 18.03.2022 and consequential letter dated 22.03.2022 have to be quashed and W.P.No.8363 of 2022 filed by Dr.L.Senthil Kumar has to be dismissed.

26. Accordingly, the impugned proceedings dated 18.06.2021 which is the subject matter of W.P.No.13416 of 2021 and the impugned communication dated 18.03.2022 and consequential letter dated 22.03.2022 which is the subject matter of W.P.No.11351 of 2021 are hereby quashed and Bharathiar University is directed to re-instate Dr.K.Srinivasan as the Head of the Department (Physics) with immediate effect.

27. In the result, W.P.No.13416 & 11351 of 2021 filed by Dr.K.Srinivasan are allowed and W.P.No.8363 of 2022 filed by Dr.L.Senthil Kumar is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

01.11.2022

nl/cs

Index : Yes/No

Speaking order/Non-speaking order

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To

1. The Registrar,
Bharathiar University,
Coimbatore-641 046.
2. The Audit Coordinator,
Registrar's Office,
Bharathiar University,
Coimbatore-641 046.
3. The Assistant Director,
Local Fund Audit,
Bharathiar University,
Coimbatore-641 046.



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ABDUL QUDDHOSE, J.

nl/cs

Pre-delivery order in
W.P.Nos.13416 of 2021, 8363 and 11351 of 2022