



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

Orders Reserved On
05.04.2022

Orders Pronounced On
13.04.2022

W.P.(MD) No.2293 of 2022

and

W.M.P.(MD) No.2005 of 2022

Prof.Dr.V. Samuel Gnana Prakash

..Petitioner

-vs-

1. The Chancellor,
Manonmaniam Sundaranar University,
Tirunelveli District.

2. The Vice Chancellor,
Manonmaniam Sundaranar University,
Tirunelveli District.

3. The Registrar,
Manonmaniam Sundaranar University,
Tirunelveli District.

4. Dr.G.Immanuel,
Associate Professor,
Centre For Marine Science and Technology,
Manonmaniam Sundaranar University,
Rajakamangalam, Kanyakumari District.

..Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records on the file of 3rd respondent vide MSU/R/Estt(T)/CAS 2021-22/SEC/2022 dated 24.01.2022 and quash the same as illegal as devoid of merits and further direct the 1 to 3 respondents to strictly adhere the norms of UGC Regulations and G.O.(Ms) No.5 Higher Education (H1) Department dated 11.01.2021 for promotion to the post of Professor Centre for Marine Science and Technology, Manonmaniam Sundaranar University, Tirunelveli.

For Petitioner : Mr.Raja Karthikeyan

For RR1 to 3 : Mr.Mahaboof Athif
for M/s.Ajmal Associates

For R4 : Mr.T.Cibi Chakraborty



O R D E R

The writ on hand is a peculiar case where the petitioner himself challenges his own appointment order appointing him as member in the capacity of Head, Centre for Marine Science and Technology. The petitioner was appointed as a member of Screening cum Evaluation and Selection Committee constituted for the eligible faculty members moving from the existing level to the next level under the Career Advance Scheme (CAS).

2. The petitioner states that he is now working as a Head of the Department, Centre for Marine Science and Technology in Manonmaniam Sundaranar University, Rajakamangalam, Kanyakumari District. The petitioner challenges his appointment as a member, Screening cum Evaluation and Selection Committee and challenging the procedural violation in convening the meeting of the Career Advance Scheme (CAS) for promotion to the post of Professor in the Department of Centre for Marine Science and Technology.

3. The learned counsel appearing for the petitioner mainly contended that as per the UGC Regulations, the report submitted by the Committee becomes final. The petitioner submitted a report pointing the level of plagiarism for grant of promotion to the 4th respondent from the post of Associate Professor to Professor in Centre for Marine Science and Technology. However, the said report has not been considered by the University and under those circumstances, the petitioner has challenged the appointment, as the procedures for considering the report of plagiarism were improper.

4. The petitioner raises several grounds regarding the issue made by him which all are unnecessary for the purpose of deciding this writ petition. The issue to be considered in the writ petition is whether the petitioner is right in challenging his own appointment as a member of the Screening cum Evaluation and Selection Committee constituted for the eligible faculty members moving from the existing level to the next level under the CAS.

5. This Court is of the considered opinion that the Committee is constituted for the purpose of evaluation and submission of its report. However, such reports are to be placed for consideration of the appropriate authority, but never to be construed as conclusive. The Committee submitted a report, which is yet to be considered by the appropriate authority for taking final decision. In the present case, the grievance of the writ petitioner is that contrary to the report of the committee, the 4th respondent is considered for promotion to the post of Professor. Such a ground may not be relevant for the purpose of challenging the appointment order of the writ petitioner by filing a writ petition. Once the petitioner was appointed as a Member of the Committee and he has conducted evaluation and submitted a report, thereafter, he cannot challenge



the appointment order. Furthermore, the Committees are appointed to assist the University for forming an opinion and taking decision. It is a part of administrative assignment allotted to the writ petitioner in his capacity as the Head of the Department. Therefore, he is expected to perform his duties diligently and he cannot stick on by stating that his report must be accepted by the University. In other words, the petitioner cannot have any personal attachment in respect of the report submitted by him. He, being the Head of the Department appointed as the member of the Committee, is duty bound to conduct evaluation and submit a decision and the final decision will be taken by the appropriate authority and thereafter, it is for the aggrieved persons to challenge the same if necessary. Contrarily, the petitioner cannot challenge his own appointment order appointing him as the Member of the Screening cum Evaluation and Selection Committee. The very challenge made is improper and the petitioner ought not to have ventured into filing of such writ petition before the High Court.

6. The learned counsel for the 4th respondent vehemently objected by stating that the very writ petition is motivated. In the event of promotion of the 4th respondent as Professor, he will become the Head of the Department in the place of the writ petitioner. This exactly is the reason why the petitioner has given an adverse report against the 4th respondent and thereafter, filed the present writ petition challenging his own appointment order.

7. The learned counsel appearing for the University also reiterated that the writ petition is filed based on certain personal motive and further, the petitioner being the Head of the Department, has to perform his duties as allotted by the University in accordance with the procedures and rules in force.

8. This Court is of the considered opinion that appointment of the writ petitioner as a member of the Committee would not be violative of any of the service conditions of the petitioner. It is part of his job allotted by the University and therefore, the petitioner is expected to perform the duty. If he is of the opinion that he cannot perform such duty, then it will amount to dereliction of duty. Dereliction of duty is a misconduct. If at all there is some impediment in performing a particular duty, he has to approach the competent authority for redressal or by providing adequate reason, he can recuse himself which is to be acceptable and the reasons must be candid. However, by merely citing that his report is not accepted by the University, he cannot file a writ petition challenging his appointment order appointing him as the member of the Committee. By challenging the appointment order, the petitioner has not established any violation of service rights or service conditions. In the absence of infringement of any service rights, no writ needs to be entertained. In the present case, the service



conditions of the petitioner are not violated and therefore, the writ petition itself is not entertainable.

9. With the above observations, this writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

abr

To

1. The Chancellor,
Manonmaniam Sundaranar University,
Tirunelveli District.

2. The Vice Chancellor,
Manonmaniam Sundaranar University,
Tirunelveli District.

3. The Registrar,
Manonmaniam Sundaranar University,
Tirunelveli District.

+1 CC to M/s.T. CIBI CHAKRABORTHY, Advocate (SR-18695[F] dated 13/04/2022)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-18928[F] dated 18/04/2022)

+1 CC to M/s.RAJA.KRTHIKEYAN, Advocate (SR-18917[F] dated 18/04/2022)

W.P.(MD) No.2293 of 2022
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MGJ(26.04.2022) 4P 7C