



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 19.04.2022

DELIVERED ON: 17.06.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.12532 of 2017

Dr.D.Vetrichelvan

... Petitioner

Vs.

1.Tamil University,
Represented by its Registrar,
Tamil University Road,
Thanjavur - 613 010.

2.The Vice Chancellor,
Tamil University,
Tamil University Road,
Thanjavur - 613 010.

3.Dr.G. Palanivelu,
Associate Professor,
Tamil University,
Tamil University Road,
Thanjavur - 613 010.

4.The Secretary to Government,
Department of Tamil Development and Hindu Religious
and Charitable Endowments,
Fort St. George,
Chennai - 9.

5.The University Grants Commission,
Represented by its Secretary,
Bahadur Shah Zafar Marg,
New Delhi - 110002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring that the action of the respondents 1 and 2 in selecting and appointing the third respondent as Associate Professor in the Department of Tamil Studies in Foreign Countries, when he is not possessing the minimum/essential qualification for appointment to the said post and also when he is less meritorious than the



petitioner in all respect as illegal, arbitrary and unconstitutional and consequently direct the respondents 1 and 2 to select and appoint the petitioner as Associate Professor in the Department of Tamil Studies in Foreign Countries with effect from 05.06.2017, the date on which the third respondent joined duty as Associate Professor with all consequential benefits, award costs and thus render justice.

For Petitioner : Mr.S.Arunachalam

For R-1 and R-2 : Mr.Isaac Mohanlal
Senior Advocate
for M/s.Isaac Chambers

For R-3 : Mr.G.Prabhu Rajadurai

For R-4 and R-5 : No Appearance

ORDER

This Writ Petition is filed for a Writ of Declaration to declare the action of the respondents 1 and 2 in selecting and appointing the third respondent as Associate Professor in the Department of Tamil Studies in Foreign Countries, when he is not possessing the minimum/essential qualification for appointment to the said post and also when he is less meritorious than the petitioner in all respects, as illegal and consequently to direct the respondents 1 and 2 to select and appoint the petitioner as Associate Professor in the Department of Tamil Studies in Foreign Countries with effect from 05.06.2017, the date on which the third respondent joined duty as Associate Professor.

2. The brief facts of the case are that the first respondent University, namely, the Tamil University, was created by the Tamil University Act, 1982 with effect from 15.09.1981 with an exclusive object of furthering the advancement of learning and researching in Tamil and is being administered in terms of the provisions of the above Act and the statutes of the Tamil University. It has got 5 faculties and 25 departments including the Department of Education and Management. The Department of Tamil Studies in Foreign Countries is functioning under the faculty of developing Tamil. All the departments except the Department of Education and Management are getting financial aid and grant from the Government of Tamil Nadu and UGC. The Department of Education and Management was created and being run by the first respondent University on self-finance basis and no grant or aid was received either from the Government of Tamil Nadu or from UGC. The total number of posts sanctioned and approved by the Government of Tamil Nadu and UGC for all the departments other than the Department of Education and Management is as follows:



- (i) Number of posts sanctioned and approved in the cadre of Professor is 30.
- (ii) Number of posts sanctioned and approved in the cadre of Associate Professor is 48.
- (iii) Number of posts sanctioned and approved in the cadre of Assistant Professor is 11.

Thus, 89 posts were sanctioned for the departments which are getting grant-in-aid from the Government of Tamil Nadu and UGC as per the report of Dr.V.C.Kuzhandhaisamy Committee.

3. The petitioner is a qualified Post Graduate in M.A. (Tamil) under 10+2+3+2 pattern. After passing the PG degree, the petitioner passed B.Ed. in 1997 and has also passed the State Level Eligibility Test which was conducted in the year 1998. The petitioner completed his Ph.D. degree course in the Department of Tamil Studies in Foreign Countries of the first respondent University. The first respondent University awarded Ph.D. Degree on 03.03.2006 for the petitioner's research work with a title called 'Tamil Kavidhai Valarchikku Pugalida Kavidhaigalin Pangalippu', that is called the research work on the topic of 'The Contribution of Exile Poems to the Development of Tamil Poetry' and it was certified that the petitioner has passed the said degree in the year 2005. The petitioner, after completing the UG degree in Tamil in the year 1993 and PG degree in M.A. Tamil in the year 1995, joined as a Secondary Grade Teacher in Government Higher Secondary School, Kattur, Thiruvarur District on 22.03.1996. The petitioner has completed B.Ed. course in part time and thereafter, registered in the Department of Tamil Studies in Foreign Countries of the first respondent University and obtained Ph.D. degree. While the petitioner was working as a Secondary Grade Teacher, the first respondent University issued advertisement for appointment to the post of Assistant Professors in various departments in the year 2007. The petitioner submitted an application for appointment to the said post. The first respondent University selected and appointed the petitioner to the said post by an order dated 07.12.2007 and he joined duty on 11.12.2007 and the petitioner has successfully completed probation in the post of Assistant Professor on 12.12.2009, which was declared vide order dated 12.10.2010. On completion of four years of service in the post of Assistant Professor and on satisfaction of other norms and conditions, the petitioner was granted upgradation of pay by the first respondent University under the Career Advancement Scheme of UGC and his grade pay was increased from Rs.6000/- to Rs.7000/- by order dated 09.10.2013 with effect from 11.02.2011. Under the same CAS scheme, the petitioner is eligible and entitled to get the next upgradation to Stage-III in the cadre of Assistant Professor with grade pay of Rs.8000/- with effect from 11.12.2016 on completion of 5 years of service in Stage-II and 9 years of service in the post of Assistant



Professor, but the grievance of the petitioner is that the first respondent has not yet taken any steps to grant the same. The petitioner has contributed in publishing books and articles and has directed a documentary film, completed research work and also a project of the Tamil University entitled Foreign Tamil.

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4. The first respondent University issued 3 separate notifications / advertisements dated 27.04.2017 in Dhinamani Daily dated 29.04.2017 calling for applications for appointment to the posts in the cadre of Professor and Associate Professor in various departments including the post of Associate Professor in the Department of Tamil Studies in Foreign Countries. One post of Associate Professor in the Department of Tamil Studies in Foreign Countries was notified under general category. The petitioner applied for the said post in the prescribed format along with the Performance Based Appraisal System (PBAS), together with the supporting documents through proper channel on 11.05.2017. After screening the applications, the first respondent University called the petitioner for interview and the petitioner appeared before the Selection Committee on 31.05.2017 with original documents. According to the petitioner, there were only three applicants including the petitioner, who were called for interview, wherein, the third respondent, who was one among the three candidates for whom the call letters were sent, attended the interview and that the other person, namely, the third candidate did not attend the interview. The first respondent has selected and appointed the third respondent as Associate Professor vide order dated 03.06.2017 and the third respondent has joined duty as Associate Professor in the Department of Tamil Studies in Foreign Countries, where the petitioner is working as Assistant Professor.

5. As per the notification, the educational qualification prescribed for the post of Associate Professor in the Department of Tamil Studies in Foreign Countries is a Post Graduate Degree in Tamil with not less than 55% of marks, a Ph.D. degree in the relevant subject and the other requirements and qualifications as prescribed under the UGC Regulations and the desirable / preferential qualification is expertise in World and Foreign Literature and Relationship and Interaction with the Organizations in other countries, which are working for development of such World Literature and Foreign Literature.

6. As per the UGC Regulations, the essential/minimum qualification is prescribed as under:

"1. An eminent scholar with a doctoral degree in the concerned-allied-relevant discipline and published work of high quality and actively engaged in research with evidence of published work with a minimum of ten publications as books and or research/policy



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papers.

2. A minimum of ten years experience in post-graduate teaching and/or research at a University/National level Institution including experience of guiding research at doctoral level. In case of Associate Professor a minimum of eight years is required and a minimum of 5 publications as books and/or research/policy papers.

3. Contribution to educational innovation, design of new curricula and courses and technology-mediated teaching process."

7. The contention of the petitioner is that the appointment of the third respondent to the said post is illegal. Before the appointment of the third respondent to the post of Associate Professor, he was working as Assistant Professor in the Department of Education and Management from the year 2007 and before that, he was employed as the Craft Instructor in the Government College of Education, Orathanadu, Thanjavur District. The third respondent is qualified in Post Graduate in Tamil and the Ph.D. Degree, which he has got from the Bharathidasan University, pertains to education and not related to either Tamil or Tamil Studies in Foreign Countries. Similarly, though he has 8 years of teaching experience in the post of Assistant Professor, the same cannot be treated as experience relating to Tamil or Tamil Studies in Foreign Countries. The third respondent has no research experience and he has not published any books, research papers relating to Tamil Studies in Foreign Countries. The only book published by him is relating to education. Thus, the third respondent has no minimum educational qualification, experience and other requirements in the same subject or allied subject or in the relevant subject relating to the Department of Tamil Studies in Foreign Countries. Since he is lacking in the minimum/essential qualification and other qualification prescribed by the first respondent University as well as by the fifth respondent UGC, he is not eligible for the post of Associate Professor.

8. The fourth respondent is said to have given approval to the appointment of the third respondent with condition that the aid from the Government for the said post will be given only if the appointment is in accordance with regulations as prescribed by the fifth respondent and that the appointment is upheld by the Court. Therefore, the action of the respondents 1 and 2 in entertaining the application of the third respondent, selecting and appointing him as Associate Professor is illegal. According to the petitioner, apart from lacking in the minimum and essential qualifications, the third respondent is also lacking on merits on all aspects compared to the Accredited Performance Indicator (API) score and PBAS. Therefore,



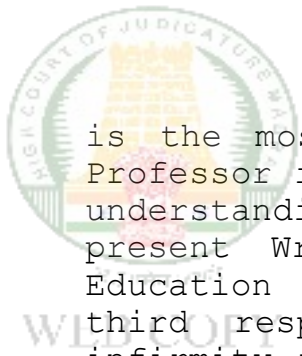
selecting a person who is lacking in minimum and essential qualification and also when he is less meritorious than the petitioner is malafide, unjust and unreasonable. The entire selection process is arbitrary and colourable exercise of powers. Selecting and appointing the third respondent as Associate Professor in the Department of Tamil Studies in Foreign Countries when he is Assistant Professor in the first respondent University is no way connected to the subject pertaining to the Department of Tamil Studies in Foreign Countries overlooking the candidature of the petitioner, particularly when the petitioner is not only the only qualified person who attended the interview but is the most meritorious qualified person among the two candidates including the third respondent, would clearly establish such selection and appointment as extraneous consideration. When the notification specifically states that the person with the knowledge and expertise in World and Foreign Literature and Association with the Organizations who are working for the development of World Literature will be given preference, the respondents 1 and 2 ought to have granted preference to the petitioner in the selection process and hence, the appointment of the third respondent is illegal and it needs interference. Therefore, the petitioner prayed to allow the Writ Petition.

9. The first and second respondents have filed a counter-affidavit stating that a circular was issued to Assistant Professors who are eligible for grade pay advancement under CAS scheme of UGC. The petitioner applied for the grade pay increase from Stage-II to Stage-III under CAS scheme. However, he has not enclosed the necessary documents/evidences with the application. As per the recommendation of the Scrutiny Committee, he was informed to apply for the CAS scheme promotion with necessary documents/evidences. It is further stated that the qualifications for the post of Associate Professor in the Department of Tamil Studies in Foreign Countries is prescribed as per the UGC Regulations. A Scrutiny Committee was constituted to verify the Academic Performance Index (shortly known as API) Score and other required qualifications prescribed by the UGC. All the applications received for the post of Associate Professor were placed before the Scrutiny Committee. A Selection Committee was constituted for the post of Associate Professor in the Department of Tamil Studies in Foreign Countries. As per the recommendation of the Scrutiny Committee, three persons including the petitioner and the third respondent were called for interview for the said post. The selection was made by the Selection Committee by considering the performance of the candidates and various norms prescribed by UGC. The Selection Committee recommended the third respondent for the post of Associate Professor and all the rules and regulations prescribed by UGC were followed in the above recruitment and there is no violation in this regard.



10. The third respondent has filed a counter-affidavit stating that the third respondent has graduated in Tamil in the year 1993 from Madras University and completed postgraduation in Tamil in the year 1996 from Annamalai University. In between, the third respondent has obtained Bachelor's Degree in Education in the year 1994 from Madras University. In the year 1997, he obtained M.Ed., from Madras University. For Bachelor Degree in Education, the third respondent chose Tamil as the subject. The third respondent was conferred with M.Phil. degree in the year 2000 and he perused research in Education under the topic "A study of the impact of modular approach on achievement, study habits and attitude of the students in Tamil grammar at Secondary Level" and conferred with Ph.D. in the year 2004. Though Ph.D. is in Education, the same is related to Tamil grammar. In the year 2007, the third respondent joined the first respondent University as Assistant Professor in the Department of Education and Management but with the condition that the third respondent would be placed in other centers as well. The third respondent continued as Assistant Professor for about 10 years without any blemish and was provided with Grade Pay on completion of the required number of years in the cadre of Assistant Professor. During his tenure as Assistant Professor for 10 years, the third respondent has published 10 books, 17 papers in authorized journals and other articles, completed 3 projects, attended many conferences on academic matters, presented 75 papers in seminars and has been invited for more than 30 conferences. The API score of the third respondent is 1903. With these qualifications and credentials, the third respondent is qualified for the post of Associate Professor.

11. It is further stated in the counter that based on the notification, the third respondent attended the interview before the Selection Committee and was selected and appointed as Associate Professor vide order dated 03.06.2017 and still, he is working in the said post. The petitioner has misconceived the qualification and he has suppressed that Ph.D. in Education (Tamil) is the relevant subject to be appointed as Associate Professor in the Department of Tamil Education in Foreign Countries. It is pertinent to state that one Dr.U.Prabhakaran, who retired as Associate Professor in the year 2018 after serving the department for about 10 years, has got his Ph.D. in Education and that no one including the petitioner had any objection, but the petitioner is objecting for the third respondent's appointment. The petitioner is not having any relevant qualification. Further, it is stated that the Department of Tamil Education in Foreign Countries is established for the purpose of development of Tamil education by teaching Tamil to foreigners, preparing Tamil text books and teaching aids and conducting classes on Tamil culture. The object is as indicated in the annual report of the first respondent University which would give a clear picture that the department is concerned in educating Tamil to foreigners and Tamil in foreign countries. Hence, Ph.D. in Education (Tamil)



is the most suitable qualification to be appointed as Associate Professor in the said department. The petitioner without having any understanding of the objects of such department has filed the present Writ Petition. It is further submitted that Ph.D. in Education (Tamil) is the relevant subject for appointment and the third respondent has required qualification and there is no infirmity in appointing the third respondent to the said post. The third respondent has vehemently denied the statement of the petitioner stating that the third respondent is not qualified to be appointed for the said post. However, the Selection Committee's decision is final and the Selection Committee has selected the third respondent and there is no infirmity in the selection process. Hence, the third respondent prayed to dismiss the Writ Petition.

12. The petitioner has filed an additional affidavit stating that the contention of the third respondent, at the end of Paragraph 4 in his counter that his Ph.D. is relating to Tamil grammar, is actually false and it is only relating to Educational Technology as mentioned in his Ph.D. degree certificate. As per the recruitment notification, the Ph.D. degree should be in the relevant subject / discipline. Therefore, even assuming without admitting that his Ph.D. degree is related to Tamil Grammar, the same cannot be taken and treated as Ph.D. degree relating to Tamil Studies in Foreign Countries. Therefore, the third respondent does not possess any Ph.D. degree in Tamil Studies in Foreign Countries and he does not possess the required essential qualification. Hence, the petitioner prayed to allow the Writ Petition and to reject the claim of the third respondent.

13. Heard Mr.S.Arunachalam, learned counsel for the petitioner, Mr.Isaac Mohanlal, learned Senior Counsel for the first and second respondents and Mr.G.Prabhu Rajadurai, learned counsel for the third respondent and perused the records.

14. The learned Senior Counsel for the first and second respondents submitted the required qualification for the post of Professors and Associate Professors as under:

"1. An eminent scholar with a doctoral degree in the concerned-allied-relevant discipline and published work of high quality and actively engaged in research with evidence of published work with a minimum of ten publications as books and or research/policy papers

2. A minimum of ten years experience in post-graduate teaching and/or research at a University/National level Institution including experience of guiding research at doctoral level. In case of Associate



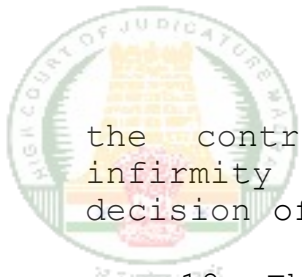
Professor a minimum of eight years is required and a minimum of 5 publications as books and/or research/policy papers

3. Contribution to educational innovation, design of new curricula and courses and technology-mediated teaching process."

15. As seen from the above, the prescribed qualification only states that a doctoral degree in the **concerned / allied / relevant** discipline. The qualification does not state that it should be in Tamil Studies in Foreign Countries. It says concerned, allied or relevant discipline. The meaning for the words "concerned", "allied" or "relevant" means it should be "related". The object ought to be to develop the project of Tamil in Foreign Countries.

16. In the present case, the third respondent has done Ph.D. in Education and the same is related to Tamil grammar and the topic is "A study of the impact of modular approach on achievement, study habits and attitude of the students in Tamil grammar at Secondary Level". The topic would clearly indicate that it is **related** to the development of Tamil grammar at Secondary Level. Therefore, this Court is of the considered opinion that the third respondent is having the requisite educational qualification.

17. The next contention raised by the petitioner is that the petitioner has published several articles and 20 books. Out of 20 books, 7 books are relevant and related to the Department of Tamil Studies in Foreign Countries. Out of those 7 books, 3 books have been prescribed as text books and reference books by Pondicherry Central University, Bharathiyar University and Madurai Kamarajar University. The petitioner has directed a documentary film about the foreign missionaries contribution to the Tamil development entitled 'Maraithamizh'. It deals with the eminent foreign Tamil scholars, namely, Caldwell, G.U. Pope, Rev.Fr.Henriques Henriq, Veeramamunivar, Zeganbalg, etc., which is also relevant and related to the Department of Tamil Studies in Foreign Countries and the petitioner has completed a major research project entitled 'A Study of International Tamilology' sponsored by University Grants Commission, New Delhi and has completed a project of the Tamil University. Since it is relevant to the Department of Tamil in Foreign Countries, the petitioner claims that his project has more value than the third respondent's contribution. The contention of the third respondent is that he had published 10 books, 17 papers in authorized journals and other articles, completed 3 projects, attended many conferences on academic matters, presented 75 papers in seminars and has been invited for more than 30 conferences. The contribution of the petitioner and the third respondent was considered by the Selection Committee. It is absolutely within the domain of the Selection Committee to select the candidate based on



the contribution and educational qualification. There is no infirmity shown by the petitioner in order to interfere with the decision of the Selection Committee.

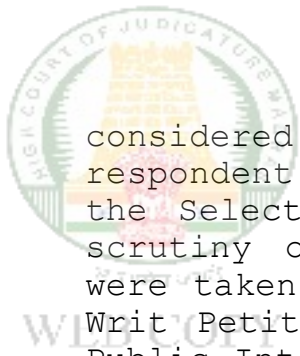
18. The next contention put forth by the petitioner is the API score rate. It is seen from the records that the API score rate of the petitioner is 1395, whereas, the API score rate of the third respondent is 1903. Therefore, based on this also, the petitioner has not made out any case, since the third respondent is having more API score.

19. The Hon'ble Supreme Court in its judgment rendered in ***B.Srinivasa Reddy Vs.Karnataka Urban Water Supply and Drainage Board Employees' Association and others*** reported in **2006(11) SCC 731(1)** has held that for the challenge under the Writ of Declaration or Writ of Quo Warranto, it is settled principle that the High Court in exercise of its jurisdiction under Article 226, 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 or Declaration and the jurisdiction is limited one which can be issued only when the appointment is contrary to the statutory rules.

20. From the above discussion, it would be evident that both the petitioner and the third respondent are qualified persons. Based on the qualification, the Selection Committee has come to the conclusion that the third respondent is eligible than the petitioner. Since the petitioner has not made out any case that the appointment of the third respondent is contrary to the statutory rules, the judicial review is very limited. This Court is of the considered opinion that there is no violation of any statutory rules. Therefore, this Court is of the considered opinion that the petitioner has not made out any case to interfere with the appointment of the third respondent.

21. The learned counsel for the petitioner submitted a memo stating that regarding the appointment of Assistant Professor and Associate Professor, a Public Interest Litigation is filed in W.P. (MD).Nos.17709 and 18416 of 2019, wherein, the allegation in the said Public Interest Litigation is that the first respondent University has appointed the said candidates for extraneous considerations and the said Public Interest Litigation will have a bearing on the merits of the present case and the petitioner has circulated a letter to the Registry to tag this Writ Petition along with the said Public Interest Litigation.

22. After considering the aforesaid memo, this Court is of the considered opinion that the claim of the petitioner in the Public Interest Litigation is a larger issue where the allegation of appointing any person with extraneous consideration should be considered. However, in the present case, this Court has only



considered the merits between the petitioner and the third respondent and the selection process and method of appointment by the Selection Committee. In the Public Interest Litigation, the scrutiny of judicial review is whether extraneous considerations were taken or not and that issue was not dealt with in the present Writ Petition. It is left open to the petitioner to address the Public Interest Litigation based on the issue raised thereunder and the merit of this Writ Petition is only whether the petitioner and the third respondent are qualified or not and that has been considered supra.

23. This Court has come to the conclusion that both the petitioner and the third respondent are meritorious candidates and the Selection Committee has considered the candidature of the third respondent and has appointed him. There is no violation of any statutory rules by the Selection Committee and the appointment of the third respondent is valid according to the merits alone. The petitioner is at liberty to address the issue of extraneous consideration before the Public Interest Litigation and that has nothing to do with this case. In fact, the Public Interest Litigation was filed in a larger interest. Therefore, the petitioner is at liberty to address the Hon'ble Division Bench on the larger interest separately.

24. This writ petition is devoid of merits and hence, this Writ Petition is dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-I)

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/06/2022

Sub Assistant Registrar(CS)

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To

1.The Registrar,Tamil University,
Tamil University Road,
Thanjavur - 613 010.

2.The Vice Chancellor,
Tamil University,
Tamil University Road,
Thanjavur - 613 010.



3.The Secretary to Government,
Department of Tamil Development and Hindu Religious
and Charitable Endowments,
Fort St. George,
Chennai - 9.

4.The Secretary,University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi - 110002.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-26483[F]
dated 17/06/2022)

+1 CC to M/s.G. PRABHU RAJADUAI, Advocate (SR-
26820[F] dated 20/06/2022)

+1 CC to M/s.S. ARUNACHALAM, Advocate (SR-26986[F]
dated 21/06/2022)

order made in
W.P. (MD) .No.12532 of 2017
17.06.2022

nsn(CO)
TR(28.06.2022) 12P 8C