



W.A.No.1970 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE K.KUMARESH BABU

W.A.No.1970 of 2019
and
C.M.P.No.13342 of 2019

Dr.P.V.Bose

... Appellant

Vs.

1.The Vice Chairman cum
Secretary to Government (Art & Culture),
Government of Puducherry,
Puducherry.

2.The Member Secretary,
Bharathiar Palkalaikoodam,
Cuddalore Main Road,
Ariyankuppam,
Puducherry.

3.The Registrar,
Pondicherry University,
R.V. Nagar, Kalapet,
Puducherry – 605 014.

4.University Grants Commission,
Represented by its Secretary,
Bahudur Shah Zafar Marg,
New Delhi – 110 002.

... Respondents



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Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying to set aside the order dated 28.03.2019 in W.P.No.8711 of 2019.

For Appellant : Mr.P.Saravana Sowmiyan

For Respondents : Mr.R.Syed Mustafa
Government Pleader (Puducherry)
for R1 and R2

: No appearance for R3 and R4

JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

This writ appeal has been directed against the order passed by the Writ Court dated 28.03.2019 made in W.P.No.8711 of 2019.

2. The appellant was the writ petitioner who was appointed and working as Assistant Professor in the 2nd respondent College. He has been working in that capacity for several years without getting in further promotion to the Associate Professor or Professor.

3. Therefore, in order to claim such promotion and consequential promotion to the post of Principal of the College, he had made an attempt



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to get the same, which he could not get it, hence he had approached this Court by filing the present writ petition in W.P.No.8711 of 2019 seeking a writ of mandamus.

4. The learned Judge who heard the writ petition, by order dated 28.03.2019, has dismissed the writ petition by making an observation that, if the petitioner/appellant would be eligible to be considered for the promotion and for subsequent appointment as a Principal of the College at the time of preparation of the panel, even though he has been qualified for promotion, then he may only raise the ground to redress his grievance. Therefore, at that juncture when he filed the writ petition, since there has been no grievance for him as no such panel was prepared, it was a premature one, according to the learned Judge. By stating the said reason, the learned Judge dismissed the said writ petition, as against which, the present writ appeal has been directed.

5. Heard Mr.P.Saravana Sowmiyan, learned counsel appearing for the appellant and Mr.R.Syed Mustafa, learned Government Pleader (Puducherry) appearing for the respondents 1 and 2.



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6. The learned Government Pleader would contend that, so far there has been no rule governing the service conditions of the Assistant Professor, Associate Professor as well as the Principal of the 2nd respondent College.

7. Since the 2nd respondent College is the only College in the Union Territory for Music and Arts, the separate rule could not have been prepared, therefore pending preparation of the rule, in order to streamline the service conditions of the Teaching faculty working in the respondent College to fill up the single Principal of the institution, even they resorted to go for a direct recruitment, that was challenged in the another writ petition filed by the present appellant as well as another Professor.

8. Ultimately now the respondents have come forward to frame the rules and the rule in fact has been gazetted on 12th September 2023. The Rule is called “Group 'A' Post of “Principal” in the Bharathiyar Palkalaikoodam, (Puducherry) Society, Recruitment Rules, 2023” (in short 'The Rules').

9. In the said Rule, in Schedule under the heading “Recruitment



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Rules for the post of Principal in Bharathiar Palkalaikoodam”, clause 5 states that, 'Whether selection post or non-selection post', it was stated that, it is a Selection post.

10. Under clause 7 of the Schedule, *'Educational and other qualifications required for direct recruits'* also has been mentioned. Under clause 10, it has been dealt with *'Method of recruitment, whether by direct recruitment or by promotion'*. The answer was by promotion, failing which by deputation including short term contract, failing both by direct recruitment.

11. Relying upon these rule position, the learned Government Pleader appearing for respondents 1 and 2 would contend that, first they will explore the possibility of selecting candidates from the in-service candidates that is called 'By promotion with selection'. If no such suitable candidates available from the institution, the candidates from other similarly placed institutions would be taken into account and as a deputation, such kind of outside candidates from the same institutions would be considered and appointment would be given as 'Principal'.

12. Even though if there is no suitable candidates are available, the



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institution will decide to go for a direct recruitment, where as per the qualification prescribed under clause 7, anybody can apply and compete including the in-service candidates.

13. Therefore, the learned Government Pleader for respondents 1 and 2 would submit that, in view of the rule that has come into effect from 12.09.2023, accordingly the selection process would be initiated by the respondent institute shortly. In that method, as per the first method if the promotion/selection is taken up, certainly the candidature of all in-service candidates who are eligible candidates including the appellant would be considered, thereafter if the institution finds there is no suitable candidates for selection on merits, the next two methods mentioned in clause 10 of Schedule would be explored.

14. Having considered the said submissions made by the learned Government Pleader appearing for respondents 1 and 2 especially in the context of the rule having been published on 12.09.2023 and as per the rule now the respondent institute decided to go ahead with the selection process for appointment to the post of Principal, where all eligible candidates including the appellant would be taken into account, we feel



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that, by recording the said stand taken by the respondents 1 and 2, this appeal can be disposed of, accordingly it is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.S.K., J.]

[K.B., J.]

15.09.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

Sgl

To

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