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WA No.1807 of 2022 etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

and

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal Nos. 1807, 1808, 1809, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1819, 2004, 2005, 2011, 2013, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2120, 2121, 2122, 2123, 2124, 2125, 2426, 2427, 2428, 2429, 2430, 2431, 2432 and 2440 of 2022

and

C.M.P. Nos.15765 and 15791 of 2022

W.A. No. 1807 of 2022

S.K. Nagarajan

.. Appellant

Versus

1.The Vice-Chancellor
Annamalai University
Annamalai Nagar
Chidambaram
Cuddalore District - 608 002

2.The Registrar
Annamalai University
Annamalai Nagar
Chidambaram
Cuddalore District - 608 002

.. Respondents



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W.A. No. 1807 of 2022:- Appeal filed under Clause 15 of the Letters Patent against the order dated 27.04.2022 passed by the learned Judge in Writ Petition No. 14434 of 2021.

For Appellants : Mr. K.M. Vijayan, Senior Advocate
for Mr. M. Velmurugan
in Writ Appeal Nos. 1807, 1808, 1809,
1811, 1812, 1813, 1814, 1815, 1816,
1817, 1819, 2426, 2427, 2428, 2429,
2430, 2431, 2432 and 2440 of 2022

Mr. K.M. Vijayan, Senior Advocate
assisted by Mr. R. Shivakumar
for M/s. K.M. Vijayan Associates
in Writ Appeal Nos. 2004, 2005, 2011,
2013, 2087, 2088, 2089, 2090, 2091,
2092, 2093, 2094, 2095, 2096, 2097,
2098, 2099, 2100, 2101, 2102, 2103,
2104, 2105, 2106, 2107, 2108, 2109,
2110, 2111, 2112, 2113, 2114, 2115,
2116, 2117, 2118, 2120, 2121, 2122,
2123, 2124 and 2125 of 2022

For Respondents : Mr. C.P. Arivudai Nambi
Standing Counsel for Annamalai University
in all the Writ Appeals

COMMON JUDGMENT

(Judgment of the Court was delivered by **R.MAHADEVAN, J**)

The writ petitioners are the appellants herein. They have filed these writ appeals as against the common orders dated 27.04.2022 and 23.06.2022 passed by the learned Judge in two different batches of writ petitions viz.,



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WP.No.14422 of 2021 etc., cases and WP No.5964 of 2022 etc., cases, respectively.

2.The case projected by the appellants herein in the writ petitions, which are absolutely necessary and germane for disposal of these appeals, are narrated hereunder.

3.(i) The appellants / Writ Petitioners were working as Assistant Professor in the respondent University. During the course of their employment, notification dated 08.08.2018 was issued inviting applications from the eligible teachers and other academic staff of the University (except medical and dental faculties) under the Career Advancement Scheme (CAS) for promotion to the posts of Associate Professor as well as Professor, as the case may be. It was indicated in the said notification that the applicant has to submit his or her application for simultaneous promotion to the post of Associate Professor as well as Professor under the CAS. As per the notification, the eligible teachers are required to submit their application to avail such promotion.

(ii) Pursuant to the aforesaid notification, the appellants / writ



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petitioners submitted their application(s) and participated in the selection process. On scrutiny of the eligibility and other norms, they were called upon to attend the interview before the Screening-cum-Evaluation Committee. Accordingly, the appellants / writ petitioners appeared before the committee and attended the interview for promotion. Thereafter, they were given promotion to the post of Associate Professor and they are working in the said promotional post till date.

(iii) The grievance of the appellants / writ petitioners before the writ court was that the respondent University ought to have conferred them dual or double promotion simultaneously to the cadre of Associate Professor and to the post of Professor under the CAS. However, what was conferred to them is promotion to the post of Associate Professor and they were deprived of their further promotion to the post of Professor. The appellants / writ petitioners therefore submitted a joint representation dated 03.12.2020 to the respondent University, stating that they have applied for promotion to the posts of Associate Professor as well as Professor under the CAS and that, they are fully qualified to be promoted for the said posts. It was also stated in the said representation that the Academic Performance Indicator (API) based on Performance Based Appraisal System (PBAS) as prescribed by the UGC



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Regulations, have been fulfilled by them. However, the appellants / writ petitioners were conferred with promotion only to the post of Associate Professor and not to the post of Professor simultaneously, under the CAS and thereby the parameters laid down by the UGC in adhering to CAS, have been diluted. Thus, in the representation dated 03.12.2020, the appellants / writ petitioners requested the respondent University to confer them further promotion to the post of Professor under the CAS, forthwith.

(iv) As the joint representation dated 03.12.2020 submitted by the appellants / writ petitioners was not considered, Writ Petition No. 643 of 2021 was filed by one Dr. N. Rajendra Prasad seeking to issue a Writ of Mandamus directing the respondents to pass orders on the representation dated 03.12.2020 with regard to the pending promotion as Professor under CAS. Similar other writ petitions were also filed for a Mandamus before the writ court. By separate orders dated 18.01.2021, all the writ petitions were disposed of, by directing the respondents to consider the representation dated 03.12.2020 and pass orders on merits and in accordance with law. Pursuant to the said direction, the Registrar, Annamalai University, second respondent herein, passed an order dated 30.04.2021 rejecting the claim of the appellants / writ petitioners.



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(v) Assailing the aforesaid order of rejection, the appellants / writ petitioners stated that as per the UGC Guidelines, 2010, Page No.7888, item No. 6.3.10, "*candidates shall offer themselves for assessment of promotion, if they fulfil the minimum API scores indicated in the appropriate API system tables by submitting an application and the required PBAS proforma. They can do so three months before the due dates if they consider themselves eligible. Candidates who do not consider themselves eligible can also apply at a later date. In any event, the University concerned shall send a general circular twice a year calling for applications for CAS promotions from eligible candidates*".

(vi) According to the appellants / writ petitioners, they possess the requisite qualification and are fully eligible for further promotion to the post of Professor under the CAS. It was also submitted that the appellants / petitioners have submitted separate applications for promotion to the post of Associate Professor as well as to the post of Professor under the CAS. As per the UGC regulations, the CAS promotion board has to be convened once in six months, whereas, the respondents convened the meeting lastly only in the year 2011 and after seven years, the Selection Committee called upon the



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appellants / writ petitioners to participate in the interview held in the year 2018. Even though the appellants / petitioners performed well in the interview and also possessed the requisite qualification, they were conferred with promotion only to the post of Associate Professor and not to the post of Professor at the same time. When the evaluation was conducted simultaneously for promotion to the post of Associate Professor as well as Professor, conferring promotion only to the post of Associate Professor is improper. The appellants / petitioners would also state that due to lapse on the part of the University in conducting the meeting to confer promotion within six months periodically, they were deprived of their legitimate right of promotion in time; and that, the appellants / petitioners possess all the requisite credentials, qualification and eligibility for being promoted to the post of Professor, but promotion to the said post has been unceremoniously denied even after three/four years. In view of such inaction on the part of the respondents, most of the appellants / petitioners are still working as Associate Professor without being promoted to the post of Professor.

(vii) It was further pleaded before the writ court by the appellants / petitioners that as per the UGC/AICTE norms, an Assistant Professor completing three years of service in the ACP shall be eligible for promotion to



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the post of Associate Professor and on completing three years in the post of Associate Professor, he or she is eligible for further promotion to the post of Professor. As the Screening-cum-Evaluation Committee was belatedly constituted by the respondent University and interview was conducted after seven years, the appellants / petitioners were made to continue in the same post without being promoted to the further post. Thus, the delay on the part of the respondent University in constituting the said Committee has highly prejudiced the appellants / petitioners inasmuch the delay has made them to stagnate in the feeder category post of Associate Professor even though they possessed all the requisite qualification under CAS for promotion to the post of Professor.

4.(i) A common counter affidavit was filed by the Registrar, Annamalai University before the Writ Court stating *inter alia* that Annamalai University was established under the Annamalai University Act, 1928 (Tamil Nadu Act 1 of 1929). Due to maladministration by the erstwhile Management, the Government of Tamil Nadu had taken over the University and repealed the 1928 Act. Consequently, the new Act namely Annamalai University Act, 2013 came into force from 25.09.2013. After the Government



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had taken over the University, an Administrator was appointed and he submitted a report stating that there were more surplus staff, both teaching and non-teaching, working in the University and decided to deploy the surplus staff. Accordingly, a total number of 1401 staff, who were found to be surplus, were deputed to various Government Arts and Science Colleges, Government Engineering Colleges, Government Polytechnic Colleges and State Universities by issuing various Government Orders. As far as non-teaching staff is concerned, the sanctioned strength was 1110, however, 8433 appointments were made by the erstwhile management. Therefore, out of 8433 non-teaching staff, 4722 staff were found to be surplus. Out of 4722 staff, 3234 staff were deputed to Government Institutions and other Departments. Thus, the mismanagement committed by the erstwhile management was rectified by resorting to a due process and it had taken much time. It is for this reason, the University could not convene the Screening-cum -Evaluation Committee periodically, as required under the CAS. On the other hand, the entire administrative machinery was involved to rectify the defects made by the erstwhile management and to streamline the activities of the University after it was taken over by the Government.

(ii) It was further submitted that as per Section 16 of the Annamalai



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University Act, 1928, since repealed, the Senate shall be the Supreme Governing Body. Section 22 of the Old Act deals with powers of the Governing body to take disciplinary action against the teaching and non-teaching staff. By virtue of the new Act namely Annamalai University Act, 2013, the old Act was repealed and there is no Senate constituted under the new Act and all the powers are vested with the Syndicate.

(iii) The counter affidavit further proceeds to state that the appellants / writ petitioners were appointed by the erstwhile Management on various dates without following the norms. However, after the State Government had taken over the management of the University, an advertisement was issued under the CAS on 08.08.2018 inviting applications from eligible teachers and other academic staff of the University under the CAS. The applications so submitted along with documentary evidence were scrutinised by the Screening- cum- Evaluation Committee comprising of (i) Vice-Chancellor (chairperson) (ii) Dean of the Faculty concerned (member) (iii) Head of the Department concerned (member) and (iv) Subject Expert (External) (Member). The committee, upon scrutiny of the applications, zeroed in on those who have fulfilled the requisite conditions prescribed by the University Grants Commission as well as All India Council for Technical Education for



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upward movement in career from one stage to the other stage as per the UGC/AICTE guidelines. The eligible candidates were interviewed and orders were passed for upward movement from the post of Assistant Professor to Associate Professor. As per the UGC/AICTE guidelines, those holding the post of Associate Professor will become eligible for promotion to the post of Professor only after serving a minimum period of three years. The committee, after deliberations, unanimously decided that one promotion may be given at a time as it felt that interview for two promotions simultaneously in the same selection process is not a convenient one. The committee therefore decided to conduct interview for promotion to the post of Associate Professor from among the feeder category post of Assistant Professor. Such a decision taken by the committee was also orally informed to all the eligible candidates during the interview itself. Thus, the eligible candidates, after being informed about the manner of the selection process, have consciously participated in the interview conducted by the committee and obtained one higher promotion as Associate Professor. None of the eligible candidates have objected to the decision of the committee to confer only one promotion at a time. Therefore, the appellants / petitioners, having participated in the interview and obtained one upward promotion to the post of Associate Professor, cannot turn around



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and file these writ petitions to seek further promotion to the post of Professor as well.

5. The learned Judge, upon hearing the rival submissions made, on perusal of the documentary evidence and by placing reliance on the Full Bench decision of this Court *dated 04.02.2022 made in W.A. Nos. 3748 of 2019 [The State of Tamil Nadu v. C.Srinivasan]*, held that there is no deemed upgradation or deemed promotion as contemplated in the relevant Government Orders and the benefit of upgradation/promotion to the next level can be granted/claimed only on completion of the qualifying service in each level/rank as prescribed in the relevant Government Orders. Accordingly, the learned Judge refused to grant the relief sought for by the petitioners and dismissed the writ petitions viz., WP.No.14422 of 2021 etc. batch, *vide* order dated 27.04.2022, the relevant passage of which, is extracted below for ready reference:

"13. Further, as per UGC Regulations 6.3.2, candidates who do not fulfill the minimum score requirement under API scoring system proposed in the Regulation, as per Tables II (a and b) of Appendix III or those who obtain less than 50% in the expert assessment of the selection process will have to be re~assessed only after a minimum period of one year.

14. The Government of Tamil Nadu Higher Educational



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Department has issued G.O.(D)No.153, Higher Education (K1) Department dated 25.06.2021 appointing Two Member Committee to conduct an enquiry with regard to any irregularity while implementing the promotion under CAS in Salem Periyar University, Madurai Kamarajar University and Annamalai University. The said Committee conducted the enquiry and they are about to file a report to the Government. The said Committee after conducting a detailed enquiry on 03.12.2021 in the respondents University and other staff members including the petitioners. As per 6.4.8. of the UGC Regulations, a Associate Professor completing 3 years of service in Stage 4 possessing as Ph.D. Degree in the relevant discipline shall be eligible to be appointed and designated as a Professor and be placed in the higher cadre (Stage 5) subject to satisfying the required credit points as per API based PBAS Methodology provided in Table I - III of Appendix IV. According to the respondents, the petitioners did not possess 3 years teaching experience as Associate Professor for getting promoted as Professor.

15. Let this Court considers the decisions relied on by the learned counsel for the petitioners. In *State of Tirupur & Others v. K.K.Roy* [(2004) 9 SCC 65], it was held that State cannot escape from its constitutional obligations and take a stand that the employee accepted the offer of appointment knowing well that there was no avenue for promotion and in such cases, principle of estoppel, inapplicable. In *Madras Institute of Development Studies & Another v. K.Sivasubramaniyan & Others* [(2016) 1 SCC 454] it was held that where an aspirant takes part in selection process without any demur, he cannot question it later. In *Union of India v. Pushpa Rani and Others* [(2008) 9 SCC 242] it was held that matters relating to creation / abolition of posts, formation / restructuring of cadres, sources / mode of recruitment, prescription of qualifications, selection criteria, evaluation of service records, are matters which fall in employer-s domain. Judicial Review comes into play only if State Action is contrary to constitutional or statutory provisions, or is patently arbitrary or vitiated by mala fides.

16. The decisions relied on by the learned counsel for the petitioner will not apply to the facts of the present case. In the case on hand, the question is not with regard to denial of promotion, but with regard to grant of two stage-promotion. Further in the case on hand, there is no explicit provision under the State or Regulation for grant of two stage promotion and as such it cannot be said to be contrary to constitutional or statutory provisions.



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17. *The Full Bench decision of this Court dated 04.02.2022 made in W.A.No.3748 of 2019 [The State of Tamil Nadu v. C.Srinivasan] relied on by the learned standing counsel for the respondents lay down the proposition that “there is no deemed upgradation or deemed promotion contemplated in the relevant Government Orders and the benefit of upgradation / promotion to the next level can be granted / claimed only on completion of the qualifying service in each level / rank as prescribed in the relevant Government Orders.” In view of the Full Bench decision of this Court, unless the petitioner acquire minimum qualifying service of 3 years as Associate Professor, he cannot claim promotion as Professor.*

18. *In the absence of specific regulation under UGC or Annamalai University, the claim of the petitioner for two stage / double promotion cannot be legally sustainable. The petitioners also cannot seek the benefit of Doctrine of Estoppel or Doctrine of Acquiescence, based on the evaluation of the Screening / Selection Committee informing the petitioners to appear for the selection process / interview for promotion under CAS. The petitioners have not produced any materials to substantiate that they have got three years teaching experience as Associate Professor or any Statutory regulations of UGC or Annamalai University in order to claim simultaneous promotion in the same selection / interview as Professor. Therefore, this Court has no hesitation to hold that in the absence of any specific provision under UGC regulations, the claim of the petitioners, seeking two stage promotion / double promotion under CAS cannot be considered.*

19. *In the light of the aforesaid facts and discussions, this Court does not find any reason to interfere with the impugned orders passed by the second respondents in Official Memorandum No.C2/2021 dated 30.04.2021 and 12.07.2021 and finds no merit in these writ petitions. In view of the dismissal of the writ petitions challenging the impugned notification of the second respondent dated 30.04.2021 on merits, the prayer for Mandamus to consider the petitioners representation dated 03.12.2020 cannot be entertained and are liable to be rejected.*

20. *In the result, all these Writ Petitions stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed."*

Following the aforesaid order dated 27.04.2022, the learned Judge dismissed



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another batch of writ petitions viz., WP.No.5964 of 2022 etc., cases on 23.06.2022. Both the orders passed by the writ court are under challenge in these appeals, at the instance of the writ petitioners.

6.(i) Mr. K.M. Vijayan, learned Senior counsel appearing for the appellants would, at the outset, submit that denial of promotion to the post of Professor by the respondents is contrary to the UGC Guidelines for promotions under CAS. According to the learned Senior counsel, promotion under CAS is a designation conferred upon the teaching faculty, who achieves the requisite qualification and experience as envisaged by UGC. As per the guidelines issued by the UGC, the promotion committee or the Evaluation Committee ought to have been constituted once in six months, but in this case, such committee was constituted belatedly i.e., after seven years. Thus, the administrative delay on the part of the respondent University in convening the Departmental Promotion Committee or Evaluation Committee to confer promotion to eligible aspirants under the CAS should not be put against the appellants / writ petitioners to get their legitimate promotion. The so-called decision taken by the Committee to confer only one promotion and that, it was informed to the candidates attending interview orally is unjust



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and arbitrary. The appellants / petitioners have possessed the requisite qualification including API Score and PABS, which were not considered by the respondents while denying them promotion to the post of Professor.

(ii) The learned Senior counsel for the appellants invited the attention of this Court to the UGC Regulations on minimum qualification for appointment of teachers and other academic staff in Universities and Colleges and measures for the maintenance of standards in Higher Education, 2018. In Clause 6.3 (I) of the said Regulations, falling under the head "Assessment Criteria and Methodology" it was mentioned as follows:

"I. A teacher who wishes to be considered for promotion under CAS must submit in writing to the university / college, with three months in advance to the due date, that he/she fulfills all qualifications under CAS and submit to the university / college the Performance Based Appraisal System proforma as evolved by the concerned university duly supported by all credentials as per the API guidelines set out in these Regulations. In order to avoid delays in holding Selection Committee meetings in various positions under CAS, the University / College should immediately initiate the process of screening / selection, and shall complete the process within six months from the date of application. Further in order to avoid hardship, the candidates who fulfill all other criteria mentioned in these Regulations, as on and till the date on which these regulations are notified, can be considered for promotion from the date, on or after the date, on which they fulfill these eligibility conditions."

(iii) By pointing out the above assessment criteria and methodology drawn for promotion under the CAS, the learned Senior counsel for the appellants submitted that CAS cannot be equated with regular promotion to



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be conferred to a person. While the departmental promotions are based on the sanctioned post against vacancy, the Career Advancement Scheme, being a personal promotion conferred to the incumbent holding a substantive sanctioned post, upon superannuation of the individual incumbent, has to be revert back to its original cadre. He would further submit that as mentioned in clause 6.3 (I) it is mandatory on the part of the respondents to initiate the process of screening/ selection and complete the process within six months from the receipt of application. In other words, the Selection Committee has to meet once in six months or twice in a year. When a statute prescribes a particular thing to be done in a particular manner, it has to be done only in such a manner and not in any other manner. When the statute prescribes the convening of the Selection Committee once in six months, for whatsoever reasons, the respondents cannot postpone or conduct such meeting at any time as may be desired by them. In the present case, even as admitted by the respondents, the committee did not meet for a period of seven years and by virtue of such delay, the career of the appellants / petitioners, to claim the promotional ladder, has been abruptly stopped and they were made to continue in the lower post, even though they have acquired all the prescribed qualifications for promotion to the further post. However, the learned Judge



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did not take note of the delay on the part of the respondents in convening the Committee within the mandatory period of six months, for conferment of promotion then and there and thereby diluting the guidelines and parameters laid down by the UGC under the CAS and ultimately dismissed the claim of the appellants / writ petitioners by the orders impugned herein. Stating so, the learned Senior counsel prayed for allowing these appeals by setting aside the orders passed by the learned Judge.

7.(i) Mr. Arivudainambi, learned standing counsel appearing for the University contended that for promotion to the post of Professor, the appellants / petitioners have to put in a minimum period of three years of service in the post of Associate Professor. In the present case, even on the same date when the petitioners were conferred with promotion to the post of Associate Professor, they want them to be conferred with further promotion to the post of Professor without even putting three years of service, as mandated under the CAS. Such a claim is being made by the appellants / writ petitioners on the ground that the Screening-cum -Evaluation Committee has not been constituted as mandated under the CAS. According to the learned counsel, merely because there was a delay in convening the CAS Promotion Board/Screening -cum -Evaluation Committee, it will not be a ground for the



appellants to contend that they are entitled for successive promotion to the posts of Associate Professor as well as Professor at the same time. In this context, he placed reliance on the decision of the Honourable Supreme Court in ***Sankar Mondal v. State of West Bengal and others [2022 SCC Online SC 1800]*** wherein it was held as under:

"5. The fact that the advertisement was of the year 1999 and we are in 2022 i.e., 24 years hence itself is an impediment in any relief to the appellant. However, that itself would not non-suit the appellant as learned counsel for the appellant contends that the appellant is now about 45 years plus hence it is submitted that he still has time to serve out. The fact however, remains that the impediment in the way of the appellant was the lack of police verification report which subsequently went against the appellant.

6. In our view, in a recruitment process, a candidate cannot be permitted to approach for redressal, howsoever may be the genuineness of the grievance, at any stage of time as there has to be a closure to the process of recruitment. In case of an advertisement dated 1999, the appellant cannot be permitted to plead that he was waiting for seven long years for getting an appointing letter and then woke up to file the O.A. before the State Administrative Tribunal. This itself is a ground to non-suit the appellant.

7. In view of the aforesaid, we are not commenting on the factual correctness of the police verification report which is sought to be disputed by the appellant.

8. The appeal is accordingly dismissed."

(ii) The learned counsel for the respondents further submitted that the appellants / writ petitioners have participated in the selection process



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knowing fully well that the selection process is confined to only one promotion from the post of Assistant Professor to Associate Professor. The appellants have also received the promotion conferred to them to have one upward movement to the post of Associate Professor. However, after having participated in the selection process and obtained promotion to one higher level post, they have filed the present writ petitions questioning the manner of selection process. Therefore, it is submitted by the learned counsel that the appellants / writ petitioners are estopped from filing the same and the writ petitions are not maintainable. The learned counsel for the respondents also submitted that it is well settled that an aspirant, who had taken part in the selection process consciously and also received promotion, cannot be permitted to turn around and contend that the selection process is vitiated on any count. In order to buttress this submission, the learned counsel placed reliance on the decisions of the Honourable Supreme Court in ***Rakesh Bakshi and another v. State of Jammu and Kashmir (Civil Appeal No. 235-236 of 2019 dated 22.01.2019)*** as well as in ***Ashok Kumar v. State of Bihar [2017 (4) Supreme Court Cases 357]*** wherein it was held that when a candidate consciously takes part in the selection process, then, challenge to



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the selection process/procedure is impermissible. It was also held that the decision reached by the experts about suitability of a candidate, generally, cannot be examined by the Court in exercise of power under Article 226 of The Constitution of India, in absence of *mala fides*, bias or arbitrariness. When an aspirant takes part in selection process without any demur, he cannot turn around and question it later.

(iii) By pointing out the ratio laid down in the above decisions, the learned counsel for the respondents University submitted that there was no malice or motive or bias on the part of the respondents in not convening the Screening cum Evaluation Committee. In the absence of any such allegation, the writ petitions are not maintainable and the appellants have no *locus standi* to file the same.

(iv) For the same proposition that the appellants / writ petitioners, after having participated in the interview, cannot maintain the writ petitions, the learned counsel appearing for the respondent University placed reliance on the decisions of the Honourable Supreme Court in (i) ***Madras Institute of Development Studies and another v. K. Sivasubramaniyan and others [(2016) 1 Supreme Court Cases 454]*** and (ii) ***Mukul Kumar Tyagi v. State***



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of Uttar Pradesh and others [(2020) 4 Supreme Court Cases 86] wherein

also, it was held that when a candidate consciously takes part in selection process, he cannot turn around and question the selection process by filing a writ petition under Article 226 of The Constitution of India.

(v) The learned counsel for the respondents further contended that all the appellants / petitioners have participated in the selection process without raising their little finger. They were also orally informed about the manner in which the selection is going to take place and the purpose for which interview is being conducted i.e., only one promotion and not for dual promotion simultaneously. Therefore, the appellants / writ petitioners, having participated in the selection process and attended the interview without any protest, are not entitled to maintain these writ petitions. In any event, the Syndicate is the apex body and its decision will bind on the appellants / writ petitioners. The syndicate has passed a resolution No.21 dated 01.08.2018 deciding to give promotion to the teaching staff in Annamalai University under CAS viz., to give only one promotion. Such a decision was also approved by the Finance Committee in the meeting held on 26.04.2019 and reiterated in the Syndicate meeting dated 10.05.2019. Thus, the appellants / writ petitioners, having accepted the one promotion given to them, are



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estopped from seeking dual promotion in a single interview. It is further contended that the writ petitioners without even serving in the promoted post of Associate Professor, are claiming further promotion to the post of Professor simultaneously, which is contrary to the guidelines laid down under the CAS. Therefore also, the respondents are justified in passing the orders of rejection, refusing to confer further promotion to the post of Professor, simultaneously. In order to justify this submission, the learned counsel for the respondents drew the attention of this Court to the minutes of the meeting regarding Career Advancement Scheme (CAS) held on 18.01.2019 at 9.00 am in the Vice-Chancellor Chamber, Annamalai University wherein it was resolved as follows:

"The following points are agreed upon by the Committee:-

1.

2.

3. As per UGC/AICTE norms, faculty members need to serve minimum three years as Associate Professor to become eligible for promotion to Professor post. Hence, the committee decides that one promotion may be given at a time, and also the committee felt that interview for two promotions simultaneously in the same Board of Selection is not a conventional one.

4. Based on the above norms of UGC/AICTE, the committee unanimously decided to interview for one promotion only (either Assistant Professor to Associate Professor or Associate Professor to Professor) to those



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candidates who have applied for two promotions. This decision may be informed to all other selection committee members as well as to the candidates at the time of interview."

Thus, the decision of the Committee was informed to all the candidates who attended the interview. The candidates also, without any protest attended the interview and were given promotion to the post of Associate Professor or Professor as the case may be. None of the candidates protested against the decision of the respondent University which culminated in the minutes of the meeting dated 18.01.2019. On the other hand, the writ petitioners without any demur, having attended the interview, it is not open for them to turn around and question the manner of selection or the denial of further promotion to the post of Professor. Considering all these factors, the learned Judge rightly dismissed the writ petitions filed by the appellants / writ petitioners, by the orders impugned herein, which do not call for any interference by this court.

8. We have heard the learned Senior counsel for the appellants as well as the learned Standing counsel for the respondent University and also perused the materials available on record.



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9. The question that arises for consideration in the present writ appeals is whether the appellants are entitled to more than one promotion simultaneously, under the Career Advancement Scheme prescribed by the UGC. At the outset, it is not in dispute that the Annamalai University is governed by the statutory regulations made by the University Grants commission under Section 26 of the UGC Act. The UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010 as well as the Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Other Measures for the Maintenance of Standards in Higher Education, 2018 (hereinafter referred to as the UGC Regulations) prescribe a Career Advancement Scheme (CAS), while also mentioning in detail the stages of promotion that the teaching faculty governed by the said regulations may be given under the CAS as stated in the Regulations.

10. In this regard, it is to be seen that the Career Advancement Scheme while prescribing upgradation of Grade Pay as well as granting promotion is not strictly 'promotion' understood in the traditional meaning of the concept. The career advancement scheme is aimed at granting an



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upgradation of pay as well as post on completion of a certain number of years by each faculty member as well as on achievement/completion of certain other parameters as prescribed under the Regulations. The very same UGC Regulations also prescribe that the Screening- cum -Evaluation committee which evaluates the applications of the faculty members in respect of promotion under the CAS as well as conduct interviews in respect of promotions to the post of Associate Professor as well as Professor and Senior Professor, must meet every six months and applications should be called for from the faculty members eligible under the scheme every six months. In the present case, it is not in dispute that the CAS selection / Screening -cum - Evaluation committee was not constituted for at least seven years and during the said period, many number of faculty members had become eligible for various posts of promotion as well as upgradation in pay on completion of certain number of years in a particular post as well as on acquiring other eligibility criteria which is required for promotion. As a result of CAS evaluation and interview committees not being constituted for a number of years, several faculty members who became eligible for more than one promotion during the said period, had applied for promotion under the UGC career advancement scheme for more than one stage of promotion, to which



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they became eligible under the Scheme.

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11. Apart from these facts that have not been disputed by either of the parties, the reasoning adopted by the Learned Judge while dismissing the writ petitions, is that unless there is a specific provision under the UGC Regulations that enables the University to grant dual or double promotion or more than one promotion at a given point of time, in the absence of the number of years of experience in the feeder post as prescribed under the Regulations, such promotions cannot be permitted. More importantly, the Learned Judge has placed reliance on the decision of the Full Bench of this Court dated 04.02.2022 made in *W.A. No. 3748 of 2019 [The State of Tamil Nadu v. C.Srinivasan]* that there is no deemed upgradation or deemed promotion contemplated in the relevant Government Orders and the benefit of upgradation/promotion to the next level can be granted/claimed only on completion of the qualifying service in each level/rank as prescribed in the relevant Government Orders.

12. In this connection, it must be seen that while the decision of the Full Bench of this Court in *C.Srinivasan's* case has laid down that there can be no deemed promotion to the next level, the said proposition of law was rendered in the particular circumstances involved in the said case against a



completely different factual backdrop. In the matter before the Full Bench, the issue raised was upgradation to the post of Special Sub-Inspector of police (SSI) on the basis and strength of specific G.O.s, wherein it was unambiguously stated that on completion of specified qualifying period of service (i.e.) 25 years as Head Constable, the latter would be eligible for upgradation as SSI. The relevant portion of the judgment in *C.Srinivasan* case is extracted hereunder for better understanding of the facts, in the background of which, it came to be delivered:

“38. A careful reading of the Government Orders clearly brings out the fact that there is no scope for any deemed upgradation. The G.Os. makes it abundantly clear that the concerned Police Constable or Head Constable, as the case may be, should have held the relevant post for a fixed period of time in order to claim for upgradation. If the Police personnel were aggrieved by such a stipulation, they ought to have challenged the Government Orders. No one has chosen to challenge the G.Os. and an attempt is being made to twist the G.Os. to suit their requirement. This Court has to necessarily understand the G.Os. in the plain language used in those G.Os. and see if the concerned Police personnel is satisfying the requirement. When a benefit is conferred, the requirements to get such a benefit must be satisfied. There is no scope for a deemed satisfaction and what is expected is the actual satisfaction of the requirements. The concerned Police personnel want these G.Os. to be implemented in such a way that upon completing a fixed period namely 25 years of overall service, they would get upgradation as Grade I Constable automatically and thereafter, as Head Constables automatically and ultimately as SSI of Police also automatically. There is no indication in the G.Os., for such automatic or deemed upgradation.

39. The Division Bench in V. Samy case at Paragraph 4 of the Order has given a finding as if the actual service of 5 years (it should have



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been 10 years) as Head Constable is not required for upgradation as SSI of Police. This finding of the Division Bench runs completely contrary to the Mandatory requirement found in G.O. Ms. No. 937, dated 21.7.1998. At Paragraph 4 of the concerned G.O., completion of 10 years' service as Head Constable is made mandatory, to be considered for upgradation to the post of SSI of Police. In view of the same, the finding given by the Division Bench in V. Samy case, which formed the basis for granting the remedy, is not correct.

40. The finding of the later Division Bench in V. Ramachandran case to the effect that 10 years of qualifying service in the rank of Head Constable out of the total service of 25 years to be considered for the upgradation to the post of SSI of Police is the correct view.

41. For the sake of clarity, we hold that the benefit of upgradation to the next level of promotion can be granted only by taking into account the completion of the qualifying service in each level of rank is prescribed in the above G.Os. There is no scope for any deemed upgradation or deemed promotion to the next level/rank and such an interpretation of the G.Os. will cause violence to the plain language that has been used in those G.Os. Every upgradation involves financial implications and the sanction is accorded by the Finance Department as per the terms of the G.O., by anticipating the exact increase in the expenditure by virtue of the upgradation/promotion. If such deemed upgradation or deemed promotion is read into the G.Os., it will not only go beyond the scope of G.Os., but also will end up in granting the benefit to those persons, who are not covered under the Government Order. The direct consequence will be that there will be a huge outflow of expenditure than what was expected through the beneficial scheme and it will put a lot of strain in the State's exchequer."

13. A reading of the above judgment would disclose that the facts involved in that case are fundamentally different, as in the present case, the UGC Regulations, 2010 would indicate the nature of promotions granted under the CAS and also the date of promotion relating back to the date of attaining eligibility for such promotion. The relevant Clauses of the UGC



Regulations relating to CAS are extracted below for easy reference and understanding:

“6.3.1 A teacher who wishes to be considered for promotion under CAS may submit in writing to the university/college, with three months in advance of the due date, that he/she fulfils all qualifications under CAS and submit to the university/college the Performance Based Appraisal System proforma as evolved by the concerned university duly supported by all credentials as per the API guidelines set out in these Regulations. In order to avoid delays in holding Selection Committee meetings in various positions under CAS, the University/College should immediately initiate the process of screening/selection, and shall complete the process within six months from the date of application. Further, in order to avoid any hardships, candidates who fulfill all other criteria mentioned in these Regulations, as on 31 December, 2008 and till the date on which this Regulation is notified, can be considered for promotion from the date, on or after 31 December, 2008, on which they fulfill these eligibility conditions, provided as mentioned above.

6.3.2 Candidates who do not fulfill the minimum score requirement under the API Scoring System proposed in the Regulations as per Tables II(a and b) of Appendix III or those who obtain less than 50% in the expert assessment of the selection process will have to be re-assessed only after a minimum period of one year. The date of promotion shall be the date on which he/she has successfully got re-assessed.

6.3.3 The Selection Committee specifications as delineated in Clauses 5.1.0 to 5.1.7 are applicable to all direct recruitments of Faculty Positions and Career Advancement promotions of Assistant Professor to Associate Professor and to that of Associate Professor to Professor.

6.3.4 CAS promotions from a lower grade to a higher grade of Assistant Professor shall be conducted by a “Screening cum Evaluation Committee” adhering to the criteria laid out as API score in PBAS in the Tables of Appendix-III.

6.3.5 The “Screening cum Evaluation Committee” for CAS promotion of Assistant Professors/equivalent cadres in Librarians/Physical Education



from one AGP to the other higher AGP shall consist of:

6.3.5.1. For University teachers:

- a. The Vice Chancellor as the Chairperson of the Selection Committee;*
- b. The Dean of the concerned Faculty;*
- c. The Head of the Department /Chairperson of the School; and*
- d. One subject expert in the concerned subject nominated by the Vice Chancellor from the University panel of experts.*

6.3.5.2 For College teachers:

- a. The Principal of the college;*
- b. Head of the concerned department from the college;*
- c. Two subject experts in the concerned subject nominated by the Vice Chancellor from the university panel of experts;*

6.3.5.3 The quorum for these committees in both categories mentioned above shall be three including the one subject expert/ university nominee need to be present.

6.3.6 The Screening cum Evaluation Committee on verification/evaluation of API score secured by the candidate through the 'PBAS' methodology designed by the respective university based on these Regulations and as per the minimum requirement specified: (a) in Tables II and III for each of the cadre of Assistant Professor; (b) in Tables V and VI for each of the cadre of Physical Education and Sports; and (c) in Tables VIII and IX for each of the cadre of Librarians shall recommend to the Syndicate/ Executive Council /Board of Management of the University about the suitability for the promotion of the candidate(s) under CAS for implementation.

6.3.7 All the selection procedures outlined above, shall be completed on the day of the selection committee meeting, wherein the minutes are recorded along with PBAS scoring proforma and recommendation made on the basis of merit and duly signed by all members of the selection committee in the minutes.

6.3.8 CAS promotions being a personal promotion to the incumbent teacher holding a substantive sanctioned post, on superannuation of the individual incumbent, the said post shall revert back to its original cadre.



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6.3.9 The incumbent teacher must be on the role and active service of the Universities/Colleges on the date of consideration by the Selection Committee for Selection/CAS Promotion.

6.3.10 Candidates shall offer themselves for assessment for promotion, if they fulfill the minimum API scores indicated in the appropriate API system tables by submitting an application and the required PBAS proforma. They can do so three months before the due date if they consider themselves eligible. Candidates who do not consider themselves eligible can also apply at a later date. In any event, the university concerned shall send a general circular twice a year calling for applications for CAS promotions from eligible candidates.

6.3.11 In the final assessment, if the candidates do not either fulfill the minimum API scores in the criteria as per PBAS proforma or obtain less than 50% in expert assessment, wherever applicable, such candidates will be reassessed only after a minimum period of one year.

6.3.12 (a) If a candidate applies for promotion on completion of the minimum eligibility period and is successful, the date of promotion will be from that of minimum period of eligibility.

(b) If, however, the candidates find that he/she fulfills the eligibility conditions at a later date and applies on that date and is successful, his/her promotion will be effected from that date of application fulfilling the criteria.

(c) If the candidate does not succeed in the first assessment, but succeeds in the eventual assessment, his/her promotion will be deemed to be from the later date of successful assessment.”

As such, the nature of promotions under the UGC Regulations relating to CAS are a personal promotion and the specific provision in 6.3.12 (a) that if a candidate applies for promotion on completion of the minimum eligibility period and is successful, the date of promotion will be from that of minimum period of eligibility, is evidence of the intention of the legislation to make the



promotion effective from the date of acquisition of eligibility.

14. When the facts and circumstances involved in the present case are fundamentally distinct and different from the facts involved in the case that led to the decision of the Hon'ble Full Bench of this Court in *C.Srinivasan's* case, apart from the legal provisions under consideration being completely different, that is to say that in *C.Srinivasan's case*, the Government Orders had specified that only after completion of qualifying period of service in the post of Head Constable, the incumbent would be eligible for promotion to the post of Special Sub-Inspector of police; whereas in the present case, the UGC Regulations very clearly mention that a person is eligible to be promoted to a particular post as and when he acquires the number of years/experience in the previous post and also states that a faculty member will be eligible to be promoted to the said promotional post from the date on which he becomes eligible for the same. Thus, it would clearly indicate that the UGC Regulations intended that there should be time to time advancement in the career of the faculty member once he completes certain number of years along with acquisition of other eligibility criteria and the date on which one should be given promotion, should be date back from the date



of acquisition of eligibility. When such is the stark difference in the guidelines which are the basis for deciding the issue, any reliance placed on the decision of the Full Bench and applying it to the facts of the present case would be inappropriate.

15. It is also a trite principle of law that the judgments are to be read and understood in the particular facts and circumstances in which they have been rendered and not as theorems of Euclid that will have universal application irrespective of the circumstances in which they have been made.

The Hon'ble Supreme Court has in ***Haryana Financial Corporation and Others v. Jagdamba Oil Mills and Others [(28.01.2002 - SC) : MANU/SC/0056/2002]***, observed as follows:

“19. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are not to be read as Euclid's theorems nor as provisions of the statute. These observations must be read in the context in which they appear. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judge to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes, their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. v. Horton 1951 AC 737, Lord Mac Dermot observed:

"The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J. as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the



language actually used by the most distinguished judges."

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20. *In Home Office v. Dorset Yacht Co. 1970 (2) All ER 294 Lord Reid said, "Lord Atkin's speech..... is not to be treated as if it was a statute definition. It will require qualification in new circumstances." Megarry, J. in (1971) 1 WLR 1062 observed: "One must not, of course, construe even a reserved judgment of even Russell L.J. as if it were an Act of Parliament." And, in Herrington v. British Railways Board (1972) 2 WLR 537 Lord Morris said:*

"There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case."

21. *Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.*

22. *The following words of Lord Denning in the matter of applying precedents have become locus classicus:*

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide, therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

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"Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it."

16. When the intention of the legislature is easy to gather from the plain words employed therein, there is no reason for this court to interpret it otherwise. Accordingly, when the very intention of the career advancement scheme is more in the nature of personal promotion to be granted in order to



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avoid stagnation among the faculty members, and each achieves upgradation in grade pay as well as promotion to the next post depending on the number of years of service and they have put in along with acquiring other eligibility criteria like API Scores, as well as completion of courses, as required under the UGC Regulations, treating the same as an ordinary promotion where qualifying period of service is required in each post, is contrary to the plain terms as mentioned in the UGC Regulations, which are statutory regulations under the UGC Act and are binding on every University. The fact that the respondent University has not conducted the CAS Selection/Screening- cum -Evaluation committee for the past so many years itself is a violation of the UGC Regulations. While it is incumbent upon the University to conduct such committee from time to time as required under the UGC Regulations, it would be sheer injustice to the faculty members if the University while itself violating the UGC Regulations, also deprives the faculty members of their right to be considered for promotion which is a fundamental right as enshrined under Articles 14 and 16 of the Constitution, apart from defeating the very object of the UGC Career Advancement Scheme. One can imagine a situation, for instance, if an Assistant Professor becomes eligible to be appointed as Associate Professor in the year 2010 and if the CAS committee



is not conducted till 2017, then, he will have lost his chance to be promoted as Associate Professor for many years and his further promotion to the next level post of Professor may never be granted if the CAS committee is not held for another few years and the faculty member will be forced to retire at a lower post inspite of being eligible for promotion. This would also mean that the number of years of eligibility as mentioned in the Regulations will be thrown to the winds. This example will expose the fallacy in the argument of the respondent University.

17. At this juncture, the Constitution Bench judgment of the Supreme Court in *Ajit Singh and Others v. The State of Punjab and Ors.* [(16.09.1999 - SC) : MANU/SC/0575/19990] is of relevance and the observation made thereunder is extracted below:

“22. We shall first deal with the fundamental rights under Articles 14 and 16(1) and then with the nature of the rights of the reserved candidates under Articles 16(4) and 16(4A).

Articles 14 and 16(1): Is right to be considered for promotion a fundamental right?

23. Article 14 and Article 16(1) are closely connected. They deal with individual rights of the person. Article 14 demands that the "State shall not deny to any person equality before the law or the equal protection of the laws". Article 16(1) issues a positive command that "there shall be equality of opportunity for all citizens in the matters relating to employment or appointment to any office under the State". It has been held repeatedly by this Court that Sub-clause (1) of Article 16 is a facet of Article 14 and that -it takes its roots from Article 14. The said Sub-clause particularizes the generality in Article 14 and identifies, in a constitutional sense "equality of



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opportunity" in matters of employment and appointment to any office under the State. The word 'employment' being wider, there is no dispute that it takes within its fold, the aspect of promotions to posts above the stage of initial level of recruitment. Article 16(1) provides to every employee otherwise eligible for promotion or who comes within the zone of consideration, a fundamental right to be "considered" for promotion. Equal opportunity here means the right to be "considered" for promotion. If a person satisfies the eligibility and zone criteria but is not considered for promotion, then there will be a clear infraction of his fundamental right to be "considered" for promotion, which is his personal right.

"Promotion" based on equal opportunity and 'seniority' attached to such promotion are facets of fundamental right under Article 16(1):

24. Where promotional avenues are available, seniority becomes closely interlinked with promotion provided such a promotion is made after complying with the principle of equal opportunity stated in Article 16(1). For example, if the promotion is by rule of seniority-cum-suitability', the eligible seniors at the basic level as per seniority fixed at that level and who are within the zone of consideration must be first considered for promotion and be promoted if found suitable. In the promoted category they would have to count their seniority from the date of such promotion because they get promotion through a process of equal opportunity. Similarly, if the promotion from the basic level is by selection or merit or any rule involving consideration of merit, the senior who is eligible at the basic level has to be considered and if found meritorious in comparison with others, he will have to be promoted first. If he is not found so meritorious, the next in order of seniority is to be considered and if found eligible and more meritorious than the first person in the seniority list, he should be promoted. In either case, the person who is first promoted will normally count his seniority from the date of such promotion. (There are minor modifications in various services in the matter of counting of seniority of such promotees but in all cases the senior most person at the basic level is to be considered first and then the others in the line of seniority). That is how right to be considered for promotion and the 'seniority' attached to such promotion become important facets of the fundamental right guaranteed in Article 16(1).

Right to be considered for promotion is not a mere statutory right:

25. The question is as to whether the right to be considered for promotion is a mere statutory right or a fundamental right.

26. Learned senior counsel for the general candidates submitted that in



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Ashok Kumar Gupta v. State of U.P. MANU/SC/1176/1997 : [1997] 3 SCR 269, it has been laid down that the right to promotion is only a "statutory right" while the rights covered by Articles 16(4) and 16(4A) are "fundamental rights". Such a view has also been expressed in Jagdish Lal and some other latter cases where these cases have been followed. Counsel submitted that this was not the correct constitutional position.

27. In this connection our attention has been invited to para 43 of Ashok Kumar Gupta. It reads as follows:

It would thus be clear that right to promotion is a statutory right. It is not a fundamental right. The right to promotion to a post or class of posts depends upon the operation of the conditions of service. Article 16(4) read with Articles 16(1) and 14 guarantees a right to promotion to Dalits and Tribes as a fundamental right where they do not have adequate representation consistently with the efficiency of administration....before expiry thereof (i.e. 5 years rule), Article 16(4) has come into force from 17.6.1995. Therefore, the right to promotion continues as a constitutionally guaranteed fundamental right.

28. A similar view was expressed in Jagdishlal and followed in some latter cases. In the above passage, it was laid down that promotion was a statutory right and that Articles 16(4) and 16(4A) conferred fundamental rights.

29. In our opinion, the above view expressed in Ashok Kumar Gupta, and followed in Jagdish Lal and other cases, if it is intended to lay down that the right guaranteed to employees for being "considered" for promotion according to relevant rules of recruitment by promotion (i.e. whether on basis of seniority or merit) is only a statutory right and not a fundamental right, we cannot accept the proposition. We have already stated earlier that the right to equal opportunity in the matter of promotion in the sense of a right to be "considered" for promotion is indeed a fundamental right guaranteed under Article 16(1) and this has never been doubted in any other case before Ashok Kumar Gupta, right from 1950."

18. Further, the issue relating to participation in the selection

process and thereafter, being estopped from challenging the same will not arise in the present case for the reason that the applications made by the CAS aspirants will indicate that they have to be considered for different



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promotional posts depending upon their eligibility; they had made more than one application, in cases, where, according to them, they were entitled for double promotion; and they did not make any undertaking that they are foregoing the next promotion by accepting one promotion offered to them. Therefore, the judgements relied upon by the respondent University in *Rakesh Bakshi and another v. State of Jammu and Kashmir [Civil Appeal No. 235-236 of 2019 dated 22.01.2019]*, *Ashok Kumar v. State of Bihar [2017 (4) Supreme Court Cases 357]*, *Madras Institute of Development Studies and another v. K. Sivasubramaniyan and others, [(2016) 1 Supreme Court Cases 454]*, and *Mukul Kumar Tyagi v. State of Uttar Pradesh and others [(2020) 4 Supreme Court Cases 86]*, do not deserve application to the present case. This is more so as the notification indicates that the applicant has to submit his or her application for simultaneous promotion to the post of Associate Professor as well as Professor under the CAS. As a matter of fact, on the basis of Clause 6.3.10 of the Regulations stating that *candidates shall offer themselves for assessment of promotion, if they fulfil the minimum API scores indicated in the appropriate API system tables by submitting an application and the required PBAS*



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proforma, the appellants had submitted separate simultaneous applications for promotion to the post of Associate Professor as well as to the post of Professor under the CAS. Therefore, the contention of the respondent University that since the appellants had participated in the process of evaluation for promotion under the career advancement scheme, they cannot now seek dual promotion, deserves to be rejected.

19. At this juncture, it is also pertinent to mention that unlike in the case of ordinary promotions, the issue of seniority is not interlinked to the promotions which are given to the faculty under the UGC career advancement scheme. As such, there would be no ensuing problem of seniority being either flouted or unsettled by granting of promotions to the teaching faculty on the basis of their eligibility under the UGC Regulations from a retrospective date from which they become eligible for the promotional post.

20. In view of the above analysis and reasoning, we hold that the appellants are entitled to dual/ double promotion as long as they fulfil the eligibility criteria as mentioned in the UGC Regulations, and they cannot be denied their right to be considered for promotion on account of the inaction or failure of the respondent University in conducting CAS promotions by



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constituting the Screening -cum -Evaluation Committee as required under the Regulations. In other words, it is made clear that the appellants did not work as Associate Professor for the required number of years, shall not stand in the way of their being promoted to the post of Professor, if the promotion to be given to them for the post of Associate Professor relates back to the date from which their service being counted, would make them eligible for the post of Professor or the next level promotional post.

21. In the result, all these writ appeals stand allowed. Consequently, the orders impugned herein as well as in the writ petitions are set aside. The respondent University is directed to consider the claim of the appellants seeking further promotion to the post of Professor under the CAS and pass necessary orders, within a period of three months from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petitions are closed.

(R.M.D., J) (M.S.Q., J)
13.07.2023

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



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To

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R. MAHADEVAN, J
and
MOHAMMED SHAFFIQ, J

rsh



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