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W.A.Nos.3242, 3243, 3245 & 3246 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE C.KUMARAPPAN

W.A.Nos.3242, 3243, 3245 & 3246 of 2019 and
C.M.P.Nos.20501, 20502, 20503, 20506,
20507, 20508, 20509, 20511, 20513, 20514,
20515, 25327, 25329, 25330, 25331 of 2019,

K.Sangeetha

... Appellant in all WAs

Vs.

The Tamil Nadu Dr.Ambedkar Law University,
Represented by its Registrar,
Poompozhi, 5 Greenways Road,
Chennai – 600 028.

... Respondent/
1st Respondent in all WAs.

2.Dr.P.Vasanth Kumar

... 2nd Respondent in W.A.Nos.3243
& 3246 of 2019

3.Dr.Balu

... 3rd Respondent in W.A.No.3246 of
2019

Prayer : Appeals filed under Clause 15 of the Letters Patent Act, praying
to set aside the common order dated 28.08.2019 in made in
W.P.Nos.17525/2012, 18819/2012, 26176/2008 & 18891/2012.



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For Appellant : Mr.Balan Haridoss
for M/s.Kanimozhimathi

For Respondents : Mr.R.Karthik Rajan
Assisted by Mr.K.Chindan
for R1 in all WAs

COMMON JUDGMENT

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

Since the issue raised in all these writ appeals is one and the same and all the appeals were filed by the same appellant, with the consent of the learned counsel appearing for both sides, all these appeals were heard together and are disposed by a common order.

2. The necessary facts which are required to be noticed for the disposal of these appeals are as follows:

(i) That the respondent University viz., The Tamil Nadu Dr.Ambedkar Law University [hereinafter in short we called as 'University'], had issued an advertisement by way of Notification dated 24.05.2006 inviting applications from eligible candidates to fill up post of Lecturer in various branches of the University.



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(ii) One such post is Lecturer in Department of International Law for which the advertisement was for one post.

(iii) The appellant also one of the applicant who made application pursuant to the Notification for the said post of Lecturer in Department of International Law. In the Selection Process, the University by communication dated 13.06.2006 issued an interview intimation called the appellant for interview. The appellant attended the interview, thereafter on 11.07.2006 an Official Memorandum was issued by the University whereby it has been informed to the appellant that, she was selected temporarily on tenure basis for appointment to the post of Lecturer in the Department of International Law in the scale of pay of Rs.8000-275-13500/-.

(iv) In the said Official Memorandum, Clause No.6 reads thus:

“6.She is informed that her appointment is on tenure basis and she will be considered for appointment on regular basis only if she passes NET /SLET as per U.G.C. norms and on production of certificate or copy of the result of the said examination.”



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(v) Thereafter the University issued an appointment order on 19.07.2006 to the appellant appointing her as Lecturer in the Department of International Law on tenure basis.

(vi) Since the said tenure basis appointment was for one year and that was made to the appellant, subsequently by further order dated 18.07.2007 the University had extended the tenure post for further period of one year or till regular candidate is appointed in her place. The relevant Clause is Clause No.3 of the order dated 18.07.2007 which reads thus:

“3) The Syndicate Sub-Committee exercising the powers and performing the duties of the Hon'ble Vice-Chancellor consider the matter. The Committee considers that in view of the interest of the students of School of Excellence in Law her services may be utilized for the SOEL by appointing her on Tenure Basis for a further period of one year or till regular candidate is appointed in her place.”

(vii) Accordingly, the appellant was working in the said tenure post and during the year 2008, since the appellant apprehend that she may be ousted at any time, she approached this Court by filing the writ petition W.P.No.26176 of 2008 with the prayer of writ of mandamus directing the



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University to continue the petitioner/appellant in the post of Lecturer in International Law until a regular candidate is appointed to the said post.

In the said writ petition, an interim order was granted, therefore the appellant was continuing in the said post at the respondent University.

(viii) Thereafter on 04.12.2011 the University issued a Notification inviting applications from eligible candidates to fill up the post of Lecturer in various disciplines including the International Law.

(ix) Subsequently the appellant has also cleared the NET examination and the results were published on 15.06.2012. Therefore, on 18.06.2012 she wrote a letter to the University to consider her for appointment on regular basis in the post of Lecturer (International Law).

(x) As the advertisement had been issued by Notification dated 04.12.2011 which was on process and her request dated 18.06.2012 also since was not decided at that time, the appellant therefore decided to approach this Court once again by filing another writ petition in W.P.No.17525 of 2012. This time the prayer is writ of mandamus directing the University to regularise and confirm the appellant in the post



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of Assistant Professor/Lecturer in the University with effect from the date of original appointment i.e., from 11.07.2006 with all other consequential and attendant benefits.

(xi) In this writ petition also the appellant was able to get some interim order. Subsequently on 12.07.2012 the appellant's request having been considered was turned out by the University. Challenging the said order passed on 12.07.2012, the appellant filed another writ petition in W.P.No.18819 of 2012, where the prayer was certiorarified mandamus call for the records of the proceedings dated 12.07.2012 issued by the University and to quash the same and consequently direct the University to regularise permanently or permanently appoint the petitioner in the post of Assistant Professor/Lecturer at the University with effect from the date of her original appointment i.e. 11.07.2006.

(xii) In the meanwhile, pursuant to the Notification dated 04.12.2011, the University proceeded with the selection process and selected one Dr.P.Vasantha Kumar as Lecturer/Assistant Professor of International Law, therefore challenging the said selection seeking for declaration declaring the appointment of the said Dr.P.Vasantha Kumar



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as invalid, the appellant had filed another writ petition in W.P.No.18891 of 2012.

(xiv) All these four writ petitions came to be disposed by a common order of the Writ Court dated 28.08.2019, where, the learned Judge by a detailed order having considered the plea raised by the petitioner/ appellant and the respondent University, ultimately was inclined to dismiss all these writ petitions. Challenging the said common order passed in those four writ petitions filed by the appellant, of the Writ Court dated 28.08.2019, the present set of appeals have been directed.

3. Heard the learned counsel appearing for the appellant as well as the learned Standing Counsel appearing for the respondent University.

4. Mr.Balan Haridoss, learned counsel appearing for the appellant has made submissions stating that, the Notification issued by the University dated 24.05.2006 is for selecting Lecturer on permanent basis not for any tenure basis. He would also submit that, under Condition No.6 of the Notification, it has been stated that, 'Candidates selected and appointed for the post of 'Lecturer' shall qualify in the National Eligibility



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Test (NET) or State Level Eligibility Test (SLET) within the period of probation, otherwise their services will be terminated. Ph.D., holders are exempted from passing NET/SLET'.

5. Relying upon this, the learned counsel would contend that, at the time of making the application, a person need not have the SLET or NET qualification.

6. The learned counsel would also submit that, in the Official Memorandum dated 11.07.2006 in Clause 6, it has been specifically mentioned that, the appellant will be considered for appointment on regular basis only if she passes NET/SLET as per U.G.C. norms and on production of certificate or copy of the result of the said examination. Therefore, there has been no time limit prescribed by the University to complete the NET/SLET and whenever it is completed and the certificate is produced by the candidate to the University, that would be considered for the purpose of making the appointment on permanent basis.

7. He would also submit that, at the time of making the extension by order dated 18.07.2007, assuming it is a tenure post, it has been extended either one year period or till regular candidate is appointed in



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her place, therefore the appointment that has been made in favour of the appellant with effect from 19.07.2006 would continue till a permanent selectee comes and join in the University.

8. However, according to the learned counsel, in the year 2012 i.e., on 15.06.2012 the appellant has qualified with NET i.e., National Eligibility Test Qualification. Therefore, the only fulfilment which should be made by the appellant since has been completed by 15.06.2012 there could be no impediment further for making the said appointment of the appellant permanent by the University, he contended.

9. He would also submit that, insofar as the advertisement that has been given by giving Notification dated 24.05.2006 is concerned, it is an open invitation to all eligible candidates, pursuant to which only the appellant made application and she was selected and appointed. When that being so, it cannot be stated that, the selection method and the appointment made to the appellant is a back-door method or the entry into University by the appellant cannot be termed as a back-door entry. Therefore the learned counsel would contend that, the principle that has been enunciated in Uma Devi's case [*Secretary, State of Karnataka v.*



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Umadevi (3), (2006) 4 SCC 1] cited by the learned Judge in the order impugned and other connected decisions would not have any application on the facts of the present case.

10. Insofar as the other ground that has been taken by the respondent University in the rejection order dated 12th July 2012 is concerned, the requirement of P.G. qualification must be obtained through regular course and not through correspondence education or distance mode is concerned, that kind of prescription had come only in the year 2009, as the University has adopted the said qualification by way of Resolution only in the year 2009. Whereas the selection in respect of the appellant has been made in the year 2006 itself and she was appointed in that year, therefore the selection and appointment made well prior to the prescription that has come only in 2009 cannot be stated to be an appointment without the necessary qualification viz., P.G. qualification in law obtained through regular mode of study.

11. In this context, the learned counsel has relied upon a decision of the Hon'ble Supreme Court reported in *(2021) 10 SCC 116* in the matter of *Somesh Thapliyal and another Vs. Vice Chancellor, H.N.B.*



Garhwal University and another, where the learned counsel relied upon

the following passages:-

“42. The submissions of the learned counsel for the respondents that the appellants have accepted the terms and conditions contained in the letter of appointment deserves rejection for the reason that it is not open for a person appointed in public employment to ordinary choose the terms and conditions of which he is required to serve. It goes without saying that employer is always in a dominating position and it is open to the employer to dictate the terms of employment. The employee who is at the receiving end can hardly complain of arbitrariness in the terms and conditions of employment. This Court can take judicial notice of the fact that if an employee takes initiation in questioning the terms and conditions of employment, that would cost his/her job itself.

43. The bargaining power is vested with the employer itself and the employee is left with no option but to accept the conditions dictated by the authority. If that being the reason, it is open for the employee to challenge the conditions if it is not being in conformity with the statutory requirement under the law and he is not estopped from questioning at a stage where he finds himself aggrieved.



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44. *In the instant case, they lodged the protest petition and brought their grievance to the notice of the respondents but were unable to question except to pray the almighty to consider their grievance sympathetically.*

45. *The term ‘substantive appointment’ is not so defined in the legal dictionary but has been referred in the service jurisprudence by the recruiting authority while framing Rules under [Article 309](#) of the Constitution and what being termed as “substantive appointment” can be gathered from U.P. Sales tax Officers (Grade II) Service Rules, 1983. The relevant extract is as under:-*

“ ‘Substantive appointment’ means an appointment, not being an ad hoc appointment, on a post in the cadre of the service made after selection in accordance with the rules and, if there are no rules in accordance with the procedure prescribed for the time being by executive instructions, issued by the Government.”

46. *The definition of “substantive appointment” can further be noticed under Rajasthan Administrative Service Rules, 1954 as under:-*

“4(n)- “substantive appointment” means an appointment made under the provisions of these Rules to a substantive vacancy after due selection by any of the methods of recruitment prescribed under these Rules and includes an appointment on probation or as a probationer followed by confirmation on the completion of the probationary period.”



47. *Almost similar nature of rule is available in the services where the recruiting authority has defined what is held as “substantive appointment” under the Recruitment Rules framed under [Article 309](#) of the Constitution and this clearly defines that an appointment made in accordance with the scheme of Rules are held to be substantive appointment.*

48. *Adverting to the facts of the case, undisputedly, the appellants were appointed pursuant to an advertisement dated 4th February, 2004 and 19th May, 2006 held for regular selection and after going through the process of selection as being provided under Chapter VI of the Act 1973 and on the recommendations been made by the statutory selection committee, constituted under [Section 31\(1\)](#) and (4) of the Act and approved by the executive council, which is a statutory authority, appointments were made in the year 2004 and 2007 respectively.*

49. *In our considered view, once the appellants have gone through the process of selection provided under the scheme of the Act 1973 regardless of the fact whether the post is temporary or permanent in nature, at least their appointment is substantive in character and could be made permanent as and when the post is permanently sanctioned by the competent authority.”*

12. Relying upon this judgment, the learned counsel would



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contend that, the post for which the selection has been made and wherein the appointment was given to the appellant is a substantive post, therefore in a substantive post in order to ascertain whether an appointment is made on temporary basis or permanent basis only the method of selection must be gone into. Here such a method of selection is by Notification issued to the open market and all eligible candidates were invited, the appellant is one among the eligible candidate who made application and thereafter the selection process went on and she was selected and appointed. When that being so, it can only be treated as a proper selection that has been made to fill up the substantive post or substantive vacancy, therefore the appellant's appointment can be treated as 'substantive appointment', when that being so, from the date of appointment the appellant is entitled to get regularisation especially in the context where the appellant has qualified the NET with effect from 15.06.2012. The learned counsel also would contend that, subsequently in the year 2015 the appellant qualified with Ph.D. degree, therefore in all fours the appellant since has been fully qualified to hold the post for all the 17 years right from 2006 she has been continuously working, the plea made by the appellant to get regularisation or made permanent of the appointment of the appellant is fully justifiable and therefore, the learned



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counsel seeks indulgence of this Court in interfering with the decision that has been made by the learned Judge through the impugned order.

13. On the other hand, Mr.Karthik Rajan, learned Standing Counsel assisted by Mr.K.Chindan, learned counsel appearing for the respondent University has contended that, no doubt the Notification dated 24.05.2006 was issued to fill up the post on permanent basis including the post of Lecturer in International Law. He would also submit that, one Krishna Prabu was selected and he was appointed and he was working for sometime and thereafter he left the institution. However, even though there is one post for which advertisement was given for the International Law Branch some contingency arose immediately that is during the selection process, where, because of large number of student had come to the School of Excellence run by the University, therefore it become necessitated for the University to select some more persons as Lecturers in various Branches of Law. Therefore the University passed a Syndicate Resolution taking a decision that, those who got second mark in the respective Branch pursuant to the selection to the Notification dated 24.05.2006 can be utilised by indicating them as 'Lecturer' on tenure basis.



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14. Accordingly, the appellant since stood as second and she secured the second highest mark in the Branch of International Law during the selection process pursuant to Notification dated 24.05.2006, the University decided to engage the appellant on tenure basis as Lecturer in the Branch of International Law, that is how the Office Memorandum dated 11.07.2006 was followed by the appointment order dated 19.07.2006.

15. He would also submit that, in all those orders it has been specifically mentioned that, it is a tenure post for a period of one year, even in the subsequent extension order dated 18.07.2007 it has been further made clear that, it is a tenure post, therefore the one year extension is given or till regular candidate is appointed, that means before the one year period if the regular appointee comes, she would be ousted that would be the meaning, the learned Standing Counsel contended.

16. He would further submit that, the appellant suddenly filed first writ petition where she was able to get an interim order and that interim order was subsequently given in the second writ petition, which was continued till disposal of the writ petitions, for continuance of the



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appellant as temporarily appointed tenure Lecturer till the disposal of the writ petitions.

17. Thereafter when the present appeals have been filed, the Division Bench has granted a similar interim order, therefore the benefit that has been extended to the appellant by way of interim orders passed by the Writ Court since has been continued in the appeals also, till date the appellant has been continuously engaged as a temporary Lecturer in the Branch of International Law, he contended.

18. The learned Standing Counsel appearing for the University has further stated that, insofar as the allegation that has been made on the appellant side that, those who did not have the qualification of NET/SLET or those who did not complete the P.G. degree by regular stream also been considered, selected and appointed and they have been made permanent and those people have been working is concerned, the said allegation that has been made by the appellant in respect of 11 such Assistant Professors, detailed reply has been made by the respondent University and against each of such candidate who has been appointed and has been working in the University, on what basis such a selection



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had been made also has been given in the response of the University which would speak for itself, he contended.

19. He would also submit that, insofar as the comparison of such Assistant Professors who have been selected and appointed despite the alleged reason that, they did not have the required qualification of SLET/ NET or qualification of P.G. degree from regular stream of education is concerned, assuming that those appointments have been made that cannot be taken as a comparison for the purpose of invoking Article 14 of the Constitution as the principle enunciated under Article 14 cannot be invoked in negative sense, it is a settled proposition of law, the learned Standing Counsel contended.

20. The learned Standing Counsel would also submit that, in the year 2009 the University adopted the requirement of educational qualification through the regular stream and whatever the selection that has been made on permanent basis prior to 2009 alone had been considered for continuation and insofar as the appellant is concerned, even though the selection was made in 2006, it is only for tenure basis and it is not a permanent selection, therefore that ground of comparison



would not help anyway the case of the appellant, he contended.

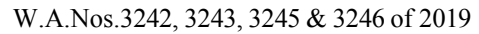
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21. Insofar as the subsequent acquiring of qualification i.e. NET in the year 2012 and Ph.D. degree in the year 2015 is concerned, till 2012 or till 2015 it is an admitted case on the part of the appellant that, she did not have the necessary or essential qualification to hold the post of Assistant Professor and therefore from 2006 the appellant cannot claim the regularisation or permanency of the appointment.

22. Assuming that, she acquired the qualification in 2012 or 2015 is concerned, by the time the period given was over and therefore after 2009 the qualification of P.G. degree obtained through correspondence education cannot be treated as a proper qualification and therefore after 2009 such kind of permanency also cannot be asked for by the appellant, the learned Standing Counsel contended.

23. Making all these submissions, the learned Standing Counsel for the respondent University would seek indulgence of this Court to sustain the order impugned.

24. We have considered the said submissions made by the learned counsel appearing for both sides and have perused the materials that have



26. Insofar as the first question is concerned, in the advertisement in Clause 6 it has been mentioned that, those who do not have the SLET has to complete that qualification within the probation period.

27. Normally the probation period will be two years from the date of appointment, therefore the probation period will be over by 2008, but within the probation period the appellant did not qualify with SLET/NET.

28. However, by the extension that has been given by the University dated 18.07.2007 it has been extended either by one year or till the regular candidate is appointed. Here in the case in hand, the regular candidate has never been appointed till 2011 or 2012.



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29. In the meanwhile, atleast two writ petitions had been filed where interim orders were granted, of course pursuant to the interim orders, the appellant was continuing.

30. Subsequently on 15.06.2012 the appellant has become qualified in NET i.e., National Eligibility Test. Immediately on 18.06.2012 she wrote a letter to the University to consider her candidature for permanent appointment, the said request was rejected through the communication dated 12th July 2012 which was also under challenge in the subsequent writ petition.

31. While making the rejection on 12.07.2012, the reason cited by the respondent University is that, the University by their Syndicate Resolution on 73rd Meeting resolved that, the candidate who secured second mark in the selection process in the year 2006 was taken for the post to be filled up, which arose due to contingency as large number of students had come to the institution run by the University during the said year i.e., June or July 2006.

32. The second reason stated that, the Syndicate vide its 78th



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Special Meeting passed a Resolution on 14.02.2007, where it was resolved that, those who are already working on tenure/adhoc basis without the qualifications prescribed by U.G.C. shall complete their present tenure and they need not be terminated, in the middle of the contract period.

33. These two University Syndicate resolutions have been cited in the order dated 12th July 2012.

34. However, insofar as the order that was passed on 12.07.2012, already the appellant has become qualified as she passed out the NET on 15.06.2012. Also, this has been brought to the notice of the University as the appellant has sent a letter on 18.06.2012 intimating that, she passed the NET and the result also has been published on 15.06.2012, therefore this issue was not properly considered by the University while they passing the rejection order dated 12th July, 2012.

35. Moreover, insofar as the P.G. qualification obtained through regular stream is concerned, the learned counsel has pointed out the relevant statute of the University where in Chapter VII under the heading 'Academic Activities of the University' in Clause 9(iii) under the heading 'Lecturer', it has been mentioned that, "*A minimum of second class*



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M.L./L.L.M. Degree in the subject or related subject with not less than 55 percent of the aggregate marks and not less than two years' teaching experience in Law in University/Law Colleges- Law Faculty. Ph.D. degree is a preferable qualification.” Citing the statute, the learned counsel argued that, the statute does not prohibit a person having the P.G. qualification in law through correspondence course, therefore correspondence course can be considered for the faculties in the University.

36. Even though the University passed a second resolution adopting the method of 10 + 2 + 3 + 2 that too by regular scheme is concerned, whether the said adoption has been incorporated in the statute or not is not known, even as on today the statute does not suggest anything inconsonance with the 2009 University Syndicate Resolution.

37. That apart, atleast in respect of one candidate by name Kannan the appointment had been given in the year 2008 knowing well that, he did not have the P.G. qualification through regular stream, the justification now given by the University for his selection is that, the



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Syndicate in its 94th Meeting held on 25.01.2009 passed such a resolution and the selection in respect of the said Dr.D.Kannan was made in the year 2008, hence his selection is not affected because of the 2009 Resolution.

38. If that being the case, that logic would apply to the case of the appellant also.

39. In respect of another candidate viz., one P.Sakthivel is concerned, the date of consideration and appointment of the said candidate is 26.06.2008. On that date it is the contention of the University that, he did have the P.G. qualification on regular mode but the fact remains that, his +2 study was under private study and his U.G. qualification also is by way of correspondence mode. In order to substantiate this, the learned counsel appearing for the appellant has produced the Higher Secondary Course Certificate of the said Sakthivel where it has been mentioned as Private and also the statement of marks of the B.A. (History) of the said Sakthivel dated 23.01.1995 states that, it is a Distance Education of Annamalai University, therefore the said candidate also did not complete the qualification which are essential one



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through regular stream, despite that he has been selected and appointed and has been made permanent. Atleast 3 appointments are able to be pointed out by the learned counsel appearing for the appellant, for which, even their own reply given by the respondent University has accepted it.

40. In respect of one candidate viz., one Dr.N.V.M.Rao is concerned, he did not have the qualification of either NET/SLET despite that he was appointed on the reason that the said Rao obtained the exemption from some other institution from having the NET/SLET qualification.

41. If some other institution had given the exemption, that need not be accepted by the University because they are very firm that the NET/SLET qualification is essential.

42. Even though it was argued by the learned counsel for the University that the said Rao after sometime left the institution, the fact remains that he was considered and selected and appointed.

43. These kind of deviations though has occurred it cannot be



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stated that, it has been intentionally made by the respondent University, but the fact remains that, these are all small deviations, by virtue of that these appointments cannot be said to be made as an illegal appointment but at the same time it may be treated only as an irregular appointment which can at any time be rectified as per the law declared by the highest Court of the land. Insofar as the appellant's case is concerned, at the time of making the appointment in the year 2006, no doubt she did not have the NET/SLET qualification, however subsequently she earned the qualification on 15.06.2012 including the Ph.D. degree in the year 2015.

44. Insofar as the P.G. qualification in law earned by the appellant is concerned, it was obtained by the appellant well prior to 2006 i.e., well before the 2009 Resolution adopted by the University Syndicate, the logic that was applied in respect of the candidate viz., Dr.D.Kannan would be squarely applied to the case of the appellant also.

45. The learned Standing Counsel appearing for the respondent University has heavily relied upon, the Division Bench judgment in the case of *V.Lekha Vs. Chairman University Grants Commission and others in W.P.No.19534 of 2018 [2021 SCC Online Mad 2946]*, where



the learned Standing Counsel relied upon paras 109 to 112 and also para

122, which reads thus:

“109. The trajectory of the main judicial discourse thus far is with regard to the main challenge in the writ petitions. As outlined in the earlier portion of the decision, there are two other issues that need to be decided in the paramount interest of maintaining exemplary standard in the field of legal education. There are two worrying scenarios that are portrayed in the course of submissions by the learned counsels. Some of the candidates have obtained their post graduate degree, though in the relevant subject as per the Notification, but had obtained their degrees through Distance Education mode. This Court, of course, cannot have any quarrel, as degrees obtained through Distance Education mode, are recognised, as held by the Apex Court as well as the Full Bench of this Court referred to supra. Despite the recognition of the degrees, this Court has a strong misgiving as to the suitability of such candidates for appointment as faculty members. Although the validity of a degree is beyond the pale of any doubt, and yet the appointments as faculty with degrees obtained through Distance Education mode or correspondence required to be clarified.

110. Any recruitment to a post of teaching faculty in higher education or any other education for that matter is



not intended to provide job opportunities to the potential candidates who apply for consideration. The purpose of appointments of teaching faculty is towards fulfillment of achieving higher academic standards in any field of education. In this case, the focus is on the quality of the legal education. The quality of education could only be measured through the type of teachers who are appointed to handle the academics. If persons with no experience in campus life having not studied and earned their degrees in the regular institutions/Colleges, may not said to have experienced the institutional academic culture and the expectation of the present generation of student community. Further, if such candidates are appointed as regular faculty in a College campus, he/she would, in all probability, unable to come to terms with the expectations of the student community.

111. Moreover, whatever be the course content of the degrees obtained through the Distance Education mode, in the absence of regular class attendance and listening to lectures of the regular Assistant Professors/Associate Professors as the case may be, interaction with fellow students the knowledge gained from regular campus education cannot be the same as to the knowledge gained through independent study, in isolation, of materials through Distance Education mode. Although this Court is



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conscious of the fact that the Distance Education mode or correspondence degrees have become social imperatives, considering the lack of access to regular education by the vast majority of the disadvantaged class, yet in the larger interest of institutional growth of higher education, the degrees obtained through Distance Education mode or correspondence cannot be considered as a valid degree for the purpose of appointment to the post of Assistant Professors in pre law course.

112. It is needless to mention that the regular campus education shapes the students' character and intellectuality towards acquiring better cognitive skills. The campus life provides a plenty of opportunities of interaction with the fellow students, lecturers and may at times provide life changing opportunities of shaping the academic orientation of many students. However, the degree holders from Distance Education mode would certainly but unfortunately suffer disadvantage on this account. There may be exceptions to these rules but the fixation of eligibility criteria are not to be influenced by the exception to the rule.

113.

122. The candidates who have obtained their Masters degree through Distance Education mode or by



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Correspondence are declared as ineligible for appointment as Assistant Professors [Pre Law], and so also the candidates with cross major degrees. It is however made clear that appointment of candidates, if any, already made, pursuant to the impugned Notifications of the year 2014 and 2017-2018, the same shall not be affected by this ruling.”

46. Absolutely no quarrel with regard to the said proposition that has been held by the Coordinate Bench of this Court.

47. However, in the case in hand the University itself has appointed Lecturers who had acquired the qualification in P.G. degree in law prior to 2009 through correspondence mode and that kind of qualification has been accepted by the University as we stated supra. Therefore, insofar as the said principle that has been enunciated in the Division Bench judgment on *V.Lekha's* case is concerned, the same cannot be made applicable in view of the peculiar facts and circumstances of the present set of cases.

48. Insofar as the reasoning that has been given by the learned



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Judge mainly relying upon the case of the Hon'ble Supreme Court in

Umadevi's case cited supra is concerned, in respect of the appellant it is not by any back-door method as it was a Notification issued on 24.05.2006 inviting applications from all eligible candidates, pursuant to which only application was made by the appellant like others and selection went on. It is the admitted case on the part of the respondent University with regard to the performance of the appellant is concerned, she stood second on merits, the first candidate viz., Krishna Prabhu already been selected as the post originally invited was only one, but due to contingency as we explained herein above, another post has to be filled, therefore the second mark candidates were taken up for consideration and this was also permitted by virtue of the University's subsequent Syndicate Resolution, that is the reason why the appointment order has been given by O.M. dated 11.07.2006 followed by the order dated 19.07.2006, therefore the entry that has been made by the appellant cannot be treated as a back-door entry, hence the principle of *Umadevi's* case cannot be made applicable to the facts of the present case.

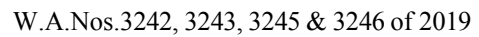
49. We have also asked Mr.Karthik Rajan, learned Standing Counsel appearing for the respondent University as to the vacancy



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position for the post of Lecturer/Assistant Professor in the Department of International Law in the University as of now, the learned Standing Counsel on instruction, would submit that, there are 4 vacancies and to that effect an affidavit also has been filed before this Court by the Vice Chancellor of the University. He has also stated that, in order to fill up those 4 posts already Notification has been issued inviting applications to go ahead with the selection process, therefore it has become very well clear that, there are number of vacancies available which are adequate to take care of the interest of the appellant also because the appellant has been working in the University for the past 17 years i.e., right from 2006 till date.

50. The experience gained by the appellant cannot be given a go-by or it cannot be brushed aside easily, the reason being that, in the field of International Law in the respondent University, the appellant has rendered service for all the 17 years and in respect of her service, she has put in for the past 17 years there has been no complaint that has been made by the respondent University so far. Therefore in order to accommodate the appellant one of the 4 vacancies can very well be taken and the appellant can be accommodated in that vacancy on permanent



51. These aspects since have not been considered in proper perspective by the learned Judge in the impugned order, we are inclined to interfere with the said judgment which is impugned herein. Resultantly all these appeals are to be ordered with the following effect:

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seniority and future promotions. The needful as indicated above shall be undertaken by the respondent University within a period of eight weeks from the date of receipt of a copy of this judgment.

52. With these directions, all the Writ Appeals are allowed accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[R.S.K., J.]

[C.K., J.]

09.10.2023

Index : Yes

Speaking Order : Yes

Neutral Citation : Yes

Sgl

To

The Registrar,
Tamil Nadu Dr.Ambedkar Law University,
Poompozhi, 5 Greenways Road,
Chennai – 600 028.



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R. SURESH KUMAR, J.
and
C.KUMARAPPAN, J.

Sgl

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09.10.2023