



WEB COPY



W.A.Nos.499, 474, 496, 497, 498, 500 to 507 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.06.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.A.Nos.499, 474, 496, 497, 498, 500 to 507 of 2023
and C.M.P.Nos.4507, 4709, 4710, 4713, 4714, 4716, 4749, 4750, 4751,
4752, 4761, 4763, 4770, 4773, 4774, 4775, 4777, 4779, 4780, 4782, 4783,
4789, 4790, 4793 & 4797 of 2023

W.A.No.499 of 2023:

K.M.Saradhadevi

.. Appellant

Vs.

1.The State of Tamil Nadu represented by
its Secretary to Government,
Higher Secondary Education Department,
Secretariat, Chennai – 600 009.

2.Bharathiar University represented by
its Registrar, Bharathiar University Post,
Coimbatore – 641 046.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the
order dated 07.09.2022 passed by the learned Judge in W.P.No.30824 of
2017.



W.A.Nos.499, 474, 496, 497, 498, 500 to 507 of 2023

For Appellant
in all appeals : Mr.Viduthalai, Senior Counsel
for Mr.Amalraj P.S.

For R1
in all appeals : Mr.G.Ameedius
Government Advocate

For R2
in all appeals : Mr.C.Vigneswaran

COMMON JUDGMENT

[Judgment of the court was delivered by R.MAHADEVAN, J.]

These writ appeals have been filed by the appellants against the common order dated 07.09.2022 passed by the learned Judge in a batch of writ petitions dismissing their claim of regularisation.

2.The facts of the case are that the appellants herein were appointed as Assistant Professors in the second respondent University, pursuant to the Notification issued on 11.07.2016, inviting applications for recruitment to the post of Assistant Professors. The initial appointment of the appellants were made under the XII Plan Period with reference to the scheme by name “General Development Assistance” on consolidated pay for a period of one year. Thereafter, the appellants were allowed to continue beyond the period



W.A.Nos.499, 474, 496, 497, 498, 500 to 507 of 2023

of their initial appointment with the same terms and conditions and the order of appointment was extended until further orders and they are continuing in service.

3.It was put forth on the side of the appellants before the Writ Court that since the appellants are continuing in the services for the past six years, they are entitled for regularisation and permanent absorption in the post of Assistant Professor in the time scale of pay as applicable under the University Grants Commission (UGC) norms. It was further stated that with reference to the previous XII Plan Period under the same scheme of General Development Assistance Scheme, the Assistant Professors engaged on contract basis therein on consolidated pay salary were regularised and brought under the regular establishment and hence, the present appellants also are entitled for the same relief of regularisation and permanent absorption.

4.Per contra, it was argued on behalf of the respondents before the Writ Court that the Finance Committee has not taken any decision in this



W.A.Nos.499, 474, 496, 497, 498, 500 to 507 of 2023

regard. It was further put forth on the side of the Government as well as the

University that the appellants were appointed under the scheme “General Development Assistance Scheme” as per the guidelines issued by the UGC i.e., XII Plan, for a period of one year on consolidated pay salary and that, the period of service was extended thereafter, as per the terms and conditions of the scheme and at no point of time, the appellants were brought under the regular establishments. It was also contended that the Former Vice Chancellor of the University, Professor A.Ganapathi was arrested and suspended by the Government of Tamil Nadu for graft charges of Vigilance and that, the Director of Vigilance and Anti-Corruption has sought permission to register a regular case under Section 17(A) of the Prevention of Corruption Act, 1988 against him, in respect of the alleged malpractices which took place in teaching recruitment process including the appointment of the appellants herein. It was further clarified by the Government Counsel that the Government cannot sanction finance in the absence of a decision by the Finance Committee of the University and that, the actions of the University are not approved by the Government nor the finance was sanctioned as per the proposal submitted by the University.



W.A.Nos.499, 474, 496, 497, 498, 500 to 507 of 2023

5.Considering the arguments advanced on either side, the learned

Judge has passed the impugned order dismissing the claim of the appellants by observing that in a scheme related appointment, the appellants were selected and appointed on contract basis for a period of one year and a consolidated salary was paid. However, the service conditions were not altered and the appellants continued only as contract employees under the XII Plan Period and the appointment was extended by proceedings dated 31.03.2017 with a specific Clause that “All other conditions stipulated in this office order cited under Ref.(2) holds good”; that when the terms and conditions of appointment are unambiguous and the appellants agreed for a contract appointment for a consolidated salary and the period of appointment also stipulated, the benefits of regularisation cannot be claimed as a matter of right; that, regularisation and permanent absorption are to be granted in accordance with the recruitment rules in force. Taking note of the facts and circumstances, the learned Judge held that if some other similarly situated persons have been granted some relief / benefits inadvertently or by mistake, such an order does not confer any legal right on others to get the same relief as well. In other words, it was held that if an illegality and



W.A.Nos.499, 474, 496, 497, 498, 500 to 507 of 2023

irregularity has been committed in favour of an individual or a group of individuals or a wrong order has been passed by a judicial forum, others cannot invoke the jurisdiction of the higher or superior Court for repeating or multiplying the same irregularity or illegality or for passing a similarly wrong order and that, if the appellants are allowed to claim regularisation as a right, it would undoubtedly cause infringement of the rights of all other candidates, who are all meritorious and eligible for securing public employment against sanctioned posts. Finally holding that the appellants have not established any right for grant of benefit of regularisation or permanent absorption, the learned Judge dismissed the writ petitions.

6.Challenging the dismissal of the writ petitions, these appeals have been filed by the appellants.

7.After some arguments, the learned senior counsel for the appellants has submitted that the appellants are confining the prayer to the limited extent of considering their representation(s) meeting out all the legal requirements by the authorities, for which the learned Government Counsel as well as the learned counsel for the University have submitted that they



W.A.Nos.499, 474, 496, 497, 498, 500 to 507 of 2023

have no serious objections in passing appropriate orders on the representation(s) of the appellants.

8.In view of the limited relief now sought on the side of the appellants, which has not been opposed by the learned counsel appearing for the respondents, the appellants are directed to submit their representation(s), if not submitted earlier, to the respondents within a period of two weeks from the date of receipt of a copy of this judgment. Thereafter, the respondents are directed to consider the same on merits meeting out all the legal requirements and pass appropriate orders, after affording an opportunity of being heard to the appellants, within a period of eight weeks.

9.All these writ appeals are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D., J.] [M.S.Q., J.]
23.06.2023

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation: Yes / No
nsd



WEB COPY



W.A.Nos.499, 474, 496, 497, 498, 500 to 507 of 2023

R.MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

nsd

To

1.The Secretary to Government,
Higher Secondary Education Department,
Secretariat, Chennai – 600 009.

2.Registrar,
Bharathiar University,
Coimbatore – 641 046.

W.A.Nos.499, 474, 496, 497, 498, 500 to 507 of 2023

23.06.2023