



W.A.No.3620 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2023

CORAM

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

W.A.No.3620 of 2019
and
C.M.P.No.23212 of 2019

P.Balaguru

... Appellant

Vs.

1.The Registrar,
University of Madras,
Chennai – 600 005.

2.The Director,
Collegiate Education,
College Road, Chennai – 600 006.

3.The Secretary,
A.M. Jain College,
Meenambakkam, Chennai – 600 114.

4.Venkataraman
5.Sindhu

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying
to set aside the order dated 28.02.2013 in W.P.No.21340 of 2009.



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For Appellant : Mr.K.Sivakumar

For Respondents : Ms.A.Shabnam Banu for R1

: Mr.Vadivelu Deenadayalan
Additional Government Pleader for R2

JUDGMENT

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

This appeal has been directed against the order passed by the Writ Court dated 28.02.2013 made in W.P.No.21340 of 2009.

2. The petitioner with earlier experience as well as the qualification appeared before the Interview Committee for appointment to the post of Lecturer at the 3rd respondent College along with some other candidates. Ultimately the appellant/petitioner was not selected whereas the 4th and 5th respondents were selected. After selection was made, the appellant filed the present writ petition seeking a prayer of writ of mandamus directing the 2nd and 3rd respondents to issue appointment order to the appellant as Lecturer in the Department of Economics in the 3rd respondent College which prayer was negated by the learned Judge who passed the order impugned dated 28.02.2013.



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3. Mr.K.Sivakumar, learned counsel appearing for the appellant would contend that, in the interview the appellant did fairly well, therefore he ought to have been selected. His second submission was that, the 4th and 5th respondents did not possess the qualification as per the Government Order i.e. G.O.Ms.No.350 dated 09.09.2009, where guidelines have been laid down as per the UGC guidelines that a person who is eligible must hold the NET qualification i.e. National Eligibility Test qualification. In this context, since the candidates 4 and 5 i.e., respondents 4 and 5 who have been selected now since did not have the qualification ,on that ground also the appellant seeks for such mandamus to appoint him as Lecturer in the Department of Economics.

4. The said writ petition having been considered was rejected by the learned Judge through the impugned order dated 28.02.2013.

5. We have heard the learned counsel appearing for the respondents 1 and 2 also.

6. In the order impugned, the learned Judge has met both the points raised on behalf of the appellant who stood as the writ petitioner.



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Insofar as the *inter se* merit that has been followed by the Interview Committee is concerned, it is the matter of evaluation of merit of candidates who appeared before the Interview Committee, therefore this Court as has been rightly pointed out by the learned Judge cannot sit as an appellate authority.

7. Secondly, insofar as the qualification of the 4th and 5th respondents, the plea raised by the appellant was also made and rejected in the following terms by the learned Judge.

“9. This contention on the face of it is misconceived, as this Court cannot sit in appeal over the process of selection, as it was for the selection committee to assess the merit of candidates, who appeared before selection committee for selection.

10. The second ground of challenge is that respondent nos.4 & 5 do not possess qualification of NET, which is the mandatory requirement as per the guidelines, therefore, the selection of respondent nos.4 & 5 cannot be sustained in law.

11. Counter has been filed, wherein positive stand of the respondents is, that 4th respondent holds the degree of



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Ph.D. and also NET, whereas 5th respondent holds the degree of M.Phil and has been selected for UG subjects, where qualification of NET is not compulsory.”

8. That apart, as rightly pointed out by the learned Judge, the selection and appointment that has been made by the 3rd respondent College in favour of the 4th and 5th respondents has never been challenged by the appellant. Further, it is to be noted that, the appellant already filed a writ petition in W.P.No.20714 of 2009 seeking a prohibitory order not to approve the appoint of 4th and 5th respondents which writ petition in fact was dismissed at his own instance i.e. dismissal by way of withdrawal. This has also been pointed out by the learned Judge and stated that the present writ petition in fact is not maintainable. We also in agreement with the said view expressed by the learned Judge.

9. That apart, on merits also the appellant/petitioner has not made out any case before the Writ Court as the very appointment itself made in favour of the 4th and 5th respondents have never been challenged. When that being so, the entire writ petition is misconceived and therefore, it



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was rightly dismissed by the learned Judge, hence that does not warrant any interference at our hands, resultantly this appeal fails, hence it is dismissed, without any order as to costs. Consequently, connected miscellaneous petition is also dismissed.

[R.S.K., J.] [K.B., J.]

29.08.2023

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

Sgl



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