



W.P.(MD)No.8182 of 2018

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:01.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.8182 of 2018
W.M.P(MD).No.7733 of 2018

Dr.S.Arivoli

... Petitioner

Vs.

- 1.The Principal Secretary to the Government of Tamil Nadu,
Department of Higher Education,
Secretariat,
Chennai.
- 2.The Chairman,
Selection Committee,
Bharathidasan University,
Palkalaiperur,
Tiruchirappalli.
- 3.The Vice-Chancellor,
Bharathidasan University,
Palkalaiperur,
Tiruchirappalli.
- 4.The Registrar,
Bharathidasan University,



W.P.(MD)No.8182 of 2018

Palkalaiperur,
Tiruchirappalli.

5.Dr.Duraiarasan,
Controller of the Examination,
Bharathidasan University,
Tiruchirappalli.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records of the second respondent with regard to the selection process of the Controller of examination in minutes No.2017.205 in the fourth respondent University dated 12.12.2017 and quash the process of selecting the fifth respondent as Controller of Examination and in consequence thereof, declare the petitioner as eligible and further direct the first respondent to appoint the petitioner to the post of Controller of Examination in the fourth respondent University.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.S.Saji Bino
Special Government Pleader
for R1
Mr.V.R.Shanmuganathan
for R2 to R4
No-appearance for R5



W.P.(MD)No.8182 of 2018

ORDER

WEB COPY

This Writ Petition has been filed to call for the records relating to the selection process of the controller of examination in minutes No. 2017.205 in the fourth respondent University dated 12.12.2017 conducted by the second respondent, quash the process of selecting the fifth respondent as Controller of examination and direct the first respondent to appoint the petitioner to the post of Controller of examination in the fourth respondent University.

2. The case of the petitioner is that the petitioner is working as Associate Professor and Head of PG Research Department of Chemistry at Thiru Vi.Ka Government Arts College, Thiruvarur. A committee was constituted for selecting the candidates to the posts of Registrar and Controller of Examination. He has applied for the posts of Registrar and Controller of Examination in the fourth respondent University. The interview was conducted on 12.12.2017. The petitioner and four other persons have participated in the interview. While so, on 12.12.2017 itself, the second respondent has declared the result as if the fifth respondent was selected to the post of Controller of Examination. In fact, the



W.P.(MD)No.8182 of 2018

petitioner was awarded 46 marks in academic credentials and eight marks in the interview, whereas, the fifth respondent was awarded 34.5 marks in academic credentials and 23 marks in the interview. Though the petitioner has secured 46 marks in academic credentials, he was awarded eight marks only in the interview and the fifth respondent was awarded 23 marks in the interview. The award of more than 15% marks in the interview is against the dictum of the Hon'ble Apex Court. Challenging the appointment of the fifth respondent, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that though the petitioner has secured higher marks in the academic credentials than the private respondent, the private respondent was selected. Contrary to the settled law, the private respondent was awarded 23 marks out of 25 marks in the interview. In order to select the private respondent, the petitioner was granted lower mark. Hence, the interview was conducted by the Selection Committee in a biased manner.

4. The learned Standing Counsel appearing for the respondents 2 to 4 would submit that though the petitioner has secured more marks in



W.P.(MD)No.8182 of 2018

the academic credentials, he has not performed well in the interview. Therefore, he was not selected and since the private respondent has completed his tenure, the present writ petition has become infructuous.

5. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the first respondent, the learned counsel appearing for the respondents 2 to 4. Though notice has been served to the private respondent, there is no representation for the private respondent.

6. There is no dispute with regard to the manner in which the examination was conducted or the award of marks in the academic in the examination. The petitioner had obtained 46 marks while the 5th respondent had obtained 34.5 marks. It is also not disputed by the respondents that the petitioner has secured the highest marks in the written examination. However, in the interview, the petitioner was awarded with 8 marks, while the 5th respondent was awarded 23 marks out of 25. Though it is within the purview of the Selection Committee to award marks on the basis of the performance of a candidate in the interview, however, it should not be lost sight of that the said assessment



W.P.(MD)No.8182 of 2018

should be based on just and proper reasoning. The basis on which the marks in the interview has been awarded has not been placed before this Court. The counter of the respondent also does not reveal the manner in which the marks have been awarded.

7. It is the duty of the respondents to award marks on the basis of sound reasoning and based on proper assessment. However, there is no material to substantiate the basis on which the respondents have awarded the marks to the petitioner and the 5th respondent. This Court is not for a moment suggesting that the 5th respondent has not done well in the interview, but the fact that the petitioner has been awarded paltry marks, while the 5th respondent has been awarded the maximum marks inspite of the fact that the petitioner has secured more than 80% in the academic examination does not augur well with this Court. In the absence of any proper reasoning in the award of marks by the Selection Committee, the only inference that could be drawn is that more marks in the interview has been awarded to the 5th respondent only to boost his overall score to be more than that of the petitioner.

8. In this regard, useful reference can be had to the decision of the



W.P.(MD)No.8182 of 2018

Apex Court in ***Ashok & Ors. - Vs - State & Ors. MANU/SC/0448/1992***),

wherein, in identical circumstances, the Supreme Court observed as under :-

"2. The appellants filed a petition before the Karnataka Administrative Tribunal challenging the Rules on the ground that the percentage of marks for viva voce as 33.3 were excessive and in violation of the decisions of this Court. The Tribunal by its order dated 24th May, 1990 dismissed the petitions and the appellants aggrieved against the aforesaid decision have approached this Court by grant of special leave. It is not necessary to examine the matter in detail inasmuch as 50 marks for interview out of 150 are clearly in violation of the judgment of this Court in Ashok Kumar Yadav and Ors. v. State of Haryana and Ors. MANU/SC/0026/1985 : [1988] Su. S.C.R. 657 and Mohinder Sain Garg v. State of Punjab and Ors. MANU/SC/0519/1991 : (1991)1SCC662 . On a direction given by this Court on 4th September, 1991 the record of the Selection Committee was produced before this Court at the time of hearing. From a perusal of the marks awarded to the selected candidates it is clear that a large number of candidates have been selected though they had secured much lesser marks than the appellants in the qualifying



WEB COPY



W.P.(MD)No.8182 of 2018

examination but had secured very high marks in the viva voce out of 50 marks kept for this purpose. Thus it is an admitted position that if the marks for interview were kept even at 15% of the total marks and merit list is prepared accordingly then both the appellants were bound to be selected and a large number of selected candidates would have gone much lower in the merit list than the appellants. In view of the fact that the result of the impugned selections was declared in 1987 and the selected candidates have already joined the posts, we do not consider it just and proper to quash the selections on the above ground. Further the selections were made according to the Rules of 1973 and this practice is being consistently followed for the last 17 years and there is no allegation of any malafides in the matter of the impugned selections. However, the Rules are clearly in violation of the dictum laid down by this Court in the above referred cases and in case the marks for viva voce would have been kept say at 15% of the total marks, the appellants before us were bound to be selected on the basis of marks secured by them in interview, calculated on the basis of converting the same to 15% of the total marks."

(Emphasis Supplied)



W.P.(MD)No.8182 of 2018

WEB COPY

9. It is also to be noted that the selection of candidates is not for any menial post, but it is for the post of Controller of Examination. Definitely, when the petitioner has scored more than 80% marks in the academic examination, definitely he would have fared well even in the interview and definitely would be eligible to more marks than what has been awarded to the petitioner. Grant of marks to the petitioner vis-a vis the 5th respondent by the Selection Committee clearly show the biased manner in which the interview has been conducted, which is only for the purpose of selecting candidate of their choice and not on the basis of higher merit. Further, had the marks for the viva voce been kept on the lower side, as has been observed in the aforesaid decision, the respondents would not have had the opportunity to place the 5th respondent above the petitioner by granting more marks in the viva voce, when the marks obtained by the petitioner in the written test outweigh the marks obtained by the 5th respondent.

10. For the reasons aforesaid, this Court is of the considered view that the selection of the 5th respondent is wholly arbitrary and unsustainable and deserves interference by this Court in exercise of its



W.P.(MD)No.8182 of 2018

jurisdiction under Article 226 of the Constitution. Accordingly, the writ petition is allowed and the impugned appointment of the 5th respondent is set aside. The respondents 1 to 4 are directed to initiate a fresh selection process for selection of candidates for the post of Registrar in accordance with law. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

01.03.2023

(2/2)

ssb
NCC:Yes/No
Index:Yes/No
Internet:Yes/No



W.P.(MD)No.8182 of 2018

To

1.The Principal Secretary to the Government of Tamil Nadu,
Department of Higher Education,
Secretariat,
Chennai.

2.The Chairman,
Selection Committee,
Bharathidasan University,
Palkalaiperur,
Tiruchirappalli.

3.The Vice-Chancellor,
Bharathidasan University,
Palkalaiperur,
Tiruchirappalli.

4.The Registrar,
Bharathidasan University,
Palkalaiperur,
Tiruchirappalli.

5.Dr.Duraiarasan,
Controller of the Examination,
Bharathidasan University,
Tiruchirappalli.



WEB COPY



W.P.(MD)No.8182 of 2018

M.DHANDAPANI,J.

ssb

W.P.(MD)No.8182 of 2018

01.03.2023

(2/2)