



W.P.(MD)No.2035 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.2035 of 2016
and
W.M.P.(MD)No.1756 of 2016

M.Ananthakrishnan

... Petitioner

vs.

1.Manonmaniam Sundaranar University,
represented by its Registrar,
Tirunelveli.

2.R.Ramesh

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Quo Warranto, to direct the 2nd respondent to show cause under what authority he had held the post of Reader in English in the 1st respondent University and now holding the post of Associate Professor, Department of English therein without being qualified for his selection as Reader in earlier occasion and now as Associate Professor in Department of English.



WEB COPY



W.P.(MD)No.2035 of 2016

For Petitioner : Mr.M.Saravanan
For R1 : M/s.Jasima Yasmin
for M/s.Ajmal Associates
For R2 : Mr.K.Ragatheesh Kumar
For M/s.Isaac Chambers

ORDER

This writ petition is filed for issuance of a writ of Quo Warranto, to direct the 2nd respondent to show cause under what authority he had held the post of Reader in English in the 1st respondent University and now holding the post of Associate Professor, Department of English therein without being qualified for his selection as Reader in earlier occasion and now as Associate Professor in Department of English.

2. The petitioner is a retired Associate Professor of Chemistry from Arignar Anna College, Aralvoimozhi and has rendered 30 years of service. The petitioner was the General Secretary / President of MUTA (Madurai Kamaraj, Manonmaniam Sundaranar, Mother Teresa and



W.P.(MD)No.2035 of 2016

WEB COPY

Alagappa University Teachers' Association) and has also served as a member of Syndicate and has retired from service in the year 2013.

3. The brief facts of the case are that the 1st respondent university is created by the Government of Tamil Nadu under Statutes. In the year 2007, the 1st respondent called for applications for appointment of Reader in English in Manonmaniam Sundaranar University. As per UGC Regulation and University Statute for direct appointment as Reader, minimum qualification is Ph.D. and with 5 years of teaching experience.

4. The contention of the petitioner is that the last date for submitting the applications along with enclosures was 06.06.2007. Among several applications the 2nd respondent application is also one of them. On the date of submission of application, the 2nd respondent had only about 1½ years of eligible regular service as Lecturer, whereas 5 years of service is mandatory. He also obtained the Demand Draft on



W.P.(MD)No.2035 of 2016

WEB COPY

14.06.2007 well after the last date and also submitted the application only on 18.06.2007, i.e., 12 days after last date. His application was forwarded to Finance Section on 19.06.2007. The Scrutiny Committee constituted by the 1st respondent consisted of three members namely Dr. Ravindranathan, Dr.Tamilselvan and Dr.Pathinettam Padiyan. But the 2nd respondent's application alone was scrutinized by only one member namely Dr.Ravindranathan. The 2nd respondent was awarded Ph.D., only in the year 2002 and he became eligible only thereafter. But he has produced a Service Certificate, dated 03.07.2003, issued in the name of Madurai Kamaraj University, Madurai, stating that he had worked as Teaching Assistant in the Department of English Studies from 14.09.1998 to 27.06.2003. During the above period, he was doing his Ph.D., degree as Full Time Scholar. The Madurai Kamaraj University has stated that no such service certificate has been issued by the University. The 2nd respondent submitted another Service Certificate issued by the Principal and Secretary of Scott Christian College, Nagercoil, wherein it



W.P.(MD)No.2035 of 2016

WEB COPY

is stated that he has served in the College for 3 years and 8 months. The Service Certificate was countersigned by the Joint Director of Collegiate Education, Tirunelveli Region also against the FDP vacancy. But the truth is that he worked only for one year, five months and 8 days only. The Joint Director of Collegiate Education, Tirunelveli has also stated that his office has not issued any such certificate to the 2nd respondent. The Scott Christian College, Nagercoil, authorities have also stated that no such Service Certificate was sent to Joint Director of Collegiate Education, Tirunelveli for counter signature. Therefore, the appointment of the 2nd respondent is questioned in the writ petition.

5. The 2nd respondent has filed counter affidavit stating that the present writ petition is not maintainable since the appointment of the 2nd respondent was in the year 2007, whereas the writ petition is filed in the year 2016 and so the petitioner is hit by delay and laches. The 2nd respondent further submitted that he is now serving as Associate



W.P.(MD)No.2035 of 2016

WEB COPY

Professor in English Department and possess M.A., English in First Class (First Rank) in April 1997, M.Phil., First Class (April 1998) and Ph.D., (submitted Thesis and relieved on 22.04.2001 and completed viva-voce on 11.02.2002). The 2nd respondent was serving as Teaching Assistant in Madurai Kamaraj University for the period from 14.09.1998 to 27.06.2003 (4 years, 9 months and 13 days). Later, served as Lecturer at Scott Christian College, Nagercoil from 16.07.2003 to 22.12.2004 (1 year, 5 months and 8 days) and from 02.01.2005 to 30.06.2007 i.e., for 3 years, 11 months and 8 days). After facing the scrutiny committee and the selection committee, the 2nd respondent was appointed on 30.08.2007.

6. The further contention of the 2nd respondent is that the 2nd respondent after assumed charge as Director of Distance and Continuing Education and discovered certain irregularities. One such allegation was against one Dr.M.Manikkam who was a member of MUTA. The 2nd respondent has taken action against the persons who have committed



W.P.(MD)No.2035 of 2016

WEB COPY

such irregularities. Therefore, the present writ petition is filed with ulterior motive. Hence, the 2nd respondent prayed to dismiss the writ petition.

7. Heard Mr.M.Saravanan, learned Counsel appearing for the petitioner, M/s. Jasima Yasmin, learned Counsel appearing for the 1st respondent and Mr.K.Ragatheesh Kumar, learned Counsel appearing for the 2nd respondent and perused the records.

8. The learned Counsel for the 2nd respondent submitted that the 2nd respondent was appointed as a Teaching Assistant in Madurai Kamaraj University on 14.09.1998. Only on 19.03.1999, he got admission for doing Ph.D. and hence, he has converted the regular study of Ph.D. as part time and continued to serve in the University as Teaching Assistant as well. Thereafter, he completed research work and submitted the thesis on 22.04.2001 and viva-voce was conducted on 11.02.2002. Even thereafter he continued as Teaching Assistant until 27.06.2003.



W.P.(MD)No.2035 of 2016

WEB COPY

Therefore, by taking the service rendered from 14.09.1998 to 18.03.1999 and from 12.02.2002 to 27.06.2003, the 2nd respondent has served as a Teaching Assistant in Madurai Kamaraj Universities for 4 years, 8 months and 9 days. If the period where the petitioner was doing Ph.D. as part time is taken into account (since the petitioner has converted the same as part time) then, the 2nd respondent has completed 4 years, 9 months and 13 days. If the period of doing Ph.D. is excluded then the petitioner had served for 2 years 8 months 9 days. Thereafter, in the Scott Christian College, he has served for 3 years, 11 months and 8 days. If the period of doing Ph.D. is excluded and the said two periods are taken, the petitioner has completed more than 5 years of teaching service. Therefore this Court is of the considered opinion that the 2nd respondent is clearly having 5 years of teaching service and the plea of the petitioner that the petitioner is rejected.

9. The next contention that was raised by the petitioner is that the



W.P.(MD)No.2035 of 2016

WEB COPY

Joint Director has not counter signed the service certificate issued by Madurai Kamaraj University. This was vehemently refuted by the 2nd respondent by stating that such a plea cannot be entertained, since the Joint Director has affixed his signature and the 2nd respondent has produced the copy of the certificate before this Court. On perusing the same, this Court is of the considered opinion that the Joint Director has affixed his signature along with seal. Therefore, the information obtained under Right to Information Act is incorrect. The petitioner cannot rely on the incorrect particulars given under the Right to Information Act.

10. The next contention that was raised by the petitioner is that the Madurai Kamaraj University has not issued the service certificate to the petitioner. However, the learned Counsel for the 2nd respondent submitted that the Madurai Kamaraj University, vide letter, dated 02.02.2012, has clarified to the Assistant Registrar that the 2nd respondent has worked as a



W.P.(MD)No.2035 of 2016

WEB COPY

Teaching Assistant from 14.09.1998 to 27.06.2003. On perusing the documents, this Court is convinced that the petitioner cannot rely on the incorrect information granted under the Right to Information Act. Therefore, as far as the service certificate is “not issued” and “not counter signed” by the Joint Director are concerned, both the pleas cannot be accepted, because the documents produced by the 2nd respondent states that Madurai Kamaraj Universities has issued the service certificate. Secondly, the Joint Director has counter signed the said certificate. Therefore the plea of the petitioner in this issue is also rejected.

11. The learned Counsel for the 2nd respondent brought to the knowledge of this Court that the petitioner was a Syndicate Member, when the 2nd respondent was appointed. To substantiate this, the 2nd respondent has produced the extract from the 16th Annual Report 2006-2007 of Manonmaniam Sundaranar University, Tirunelveli. The



W.P.(MD)No.2035 of 2016

WEB COPY

petitioner was appointed as one of the members under Section 23(b) Class II- Other Members-Sub Section (2) Serial No.11 which will clearly indicate that the petitioner is one of the member of the Syndicate and had approved the appointment of the 2nd respondent. The petitioner is having access to all the documents wherein the selection committee has scrutinized the candidature of the 2nd respondent. Since the petitioner is having knowledge and access to the documents, but filed the present writ petition belatedly, therefore the present litigation filed after a lapse of 9 years is hit by the principles of delay and laches.

12. The 2nd respondent has filed a detailed counter narrating the unauthorised admission carried out by the Manonmaniam Sundaranar University and the people behind it. Especially the fees for the admission was not deposited in Directorate account but was deposited in the personal account of the then Registrar Dr.S.Manickam who is a member of MUTA. Also submitted he was threatened, was driven to file several



W.P.(MD)No.2035 of 2016

WEB COPY

petitions including petition seeking police protection. Therefore, this Court is of the considered opinion that the present litigation is a vexatious litigation coupled with the fact that it has been filed belatedly.

13. Moreover the power under Article 226 of Indian Constitution to interfere and issue Quo Warranto is limited, since scrutiny committee and selection committee are the appropriate authorities to scrutinize the candidature of the applicants. When such committees have scrutinized, thereafter had appointed the 2nd respondent, when there is no perverse in selecting the 2nd respondent, the writ petition is liable to be dismissed.

14. For all these reasons, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
NCC : Yes / No
Tmg

01.03.2023



WEB COPY



W.P.(MD)No.2035 of 2016

S.SRIMATHY, J

Tmg

W.P.(MD)No.2035 of 2016

01.03.2023