



W.A.(MD) Nos.193 to 210, 295 and 739 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.11.2023

CORAM

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD) Nos.193 to 210, 295 and 739 of 2023
and C.M.P. (MD) Nos.2522, 2524, 2525, 2527, 2529, 2535, 2539, 2542,
2544, 2545, 2548, 2550, 2552, 2553, 2557, 2559, 2563, 2566, 3353 and
6330 of 2023

The Registrar,
Alagappa University,
Karaikudi – 630 003,
Sivagangai District.

... Appellant/Respondent in all
the Writ Appeals

-Vs.-

S.Sornam

... Respondent/Writ Petitioner in
W.A.(MD) No.193 of 2022

M.Murugesan

... Respondent/Writ Petitioner in
W.A.(MD) No.194 of 2022

T.Deepa

... Respondent/Writ Petitioner in
W.A.(MD) No.195 of 2022

T.D.Kamini

... Respondent/Writ Petitioner in
W.A.(MD) No.196 of 2022

P.Jeyanthi

... Respondent/Writ Petitioner in
W.A.(MD) No.197 of 2022



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K.Sumathi

... Respondent/Writ Petitioner in
W.A.(MD) No.198 of 2022

P.Manickam

... Respondent/Writ Petitioner in
W.A.(MD) No.199 of 2022

S.Kavipriya

... Respondent/Writ Petitioner in
W.A.(MD) No.200 of 2022

K.Subramanian

... Respondent/Writ Petitioner in
W.A.(MD) No.201 of 2022

K.R.Jeya

... Respondent/Writ Petitioner in
W.A.(MD) No.202 of 2022

P.Malarvizhi

... Respondent/Writ Petitioner in
W.A.(MD) No.203 of 2022

M.Hemalatha

... Respondent/Writ Petitioner in
W.A.(MD) No.204 of 2022

M.Umamaheswari

... Respondent/Writ Petitioner in
W.A.(MD) No.205 of 2022

D.Ramesh Babu

... Respondent/Writ Petitioner in
W.A.(MD) No.206 of 2022

P.Chinniah

... Respondent/Writ Petitioner in
W.A.(MD) No.207 of 2022

P.Muthuselvi

... Respondent/Writ Petitioner in
W.A.(MD) No.208 of 2022

G.Selvi

... Respondent/Writ Petitioner in
W.A.(MD) No.209 of 2022

SP.Geetha

... Respondent/Writ Petitioner in
W.A.(MD) No.210 of 2022



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Dr.S.Narayanan

... Respondent/Writ Petitioner in
W.A.(MD) No.295 of 2022

B.Lakshmi

... Respondent/Writ Petitioner in
W.A.(MD) No.739 of 2022

COMMON PRAYER:- Writ Appeals filed under Clause 15 of Letters Patent Act, to set aside the common order dated 09.03.2022, 11.03.2022 and 08.11.2022 made in W.P.(MD)Nos.21240, 22944, 20745, 20741, 20738, 20744, 19430, 20746, 20983, 20739, 21242, 20740, 20742, 20743, 19432, 21241, 21239, 19431, 19727 of 2018 and 342 of 2019 on the file of this Court.

For Appellant in all the
Writ Appeals

: Mr.T.Cibi Chakraborty

For Respondent

: Mr.M.E.Ilango
in W.A.(MD) Nos.193, 195 to
210, 295 & 739 of 2023

Mr.Anwar Sameem
in W.A.(MD) No.194 of 2023

COMMON JUDGMENT

(Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**)

The present Writ Appeals are filed calling upon to ascertain the correctness of the orders passed by the learned Single Judge in batch of Writ Petitions in order dated 09.03.2022, 11.03.2022 and 08.11.2022.



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2. The respondents in the Writ Appeals were appointed in various cadres as administrative staff in the appellant University. After serving for long years in the University, they have submitted representations to the Grievance Committee to grant upgradation, considering their length of services and by considering their workload and other aspects. The Grievance Committee in its proceedings dated 29.05.2018, considered the grievances of the administrative staff of the University and passed a resolution, recommending for upgradation of the staff members to the next higher category.

3. Admittedly, the resolution passed by the Grievance Committee was not placed before the Finance Committee and it was directly placed before the Syndicate for passing the orders. The Syndicate passed an order on 30.05.2018, approving the Minutes of the Grievance Committee for Administrative Staff held on 29th May, 2018. Pursuant to the resolution passed by the Syndicate, the respondents staff were upgraded to the higher posts and accordingly their pay band was revised.

4. After upgrading the administrative staff, pursuant to the resolution passed by the Syndicate, the decision taken was reversed



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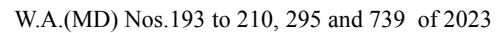
based on the Government Order issued in G.O.Ms.No.110, Higher Education (K1) Department, dated 12.06.2018, wherein the Government in Sub-Clause (vi) and (vii) issued orders as under:-

“vi) Additional expenditure incurred on account of granting higher pay scales and other emoluments, wrong pay fixation etc., in violation of Government norms be disallowed and the Universities be penalized by deducting from the Block Grant an amount equal to the amount so disallowed.

vii) Posts sanctioned by the Syndicate without prior scrutiny by the Finance Committee be penalized by reducing future grants and the expenditure on that account for any Grants be disallowed.”

Thereafter, it was placed before the Finance Committee and the Committee rejected the recommendations of the Grievance Committee on 03.08.2018, which was under challenge by the staff members in the writ proceedings. Consequently, the Syndicate passed a resolution on the same day recalling the upgradation resolution dated 30.05.2018. Thus, the respondents instituted writ proceedings challenging the orders.

5. Learned Single Judge considered the issues and made a finding that the recommendations of the Finance Committee was not placed before the Syndicate before passing the resolution granting upgradation.



7. Learned Single Judge further considered the fact that the Department's opinion was not obtained prior to the upgradation stake was committed by the University / appellant. However, the loss with the monetary benefit would be meagre and would not create any financial difficulties to the University.

8. Learned counsel for the appellant mainly contended that the procedure adopted by the Syndicate without inviting the recommendation of the Finance Committee is directly in violation of Section 33(8) of Alagappa University Act.

9. Learned counsel drew our attention with reference to the mandatory requirements contemplated under Section 33(8) of the Alagappa University Act, which stipulates that the Financial Committee



shall “(b) make recommendation to the Syndicate on every proposal involving investment or expenditure for which no provision has been made in the annual financial estimates or which involves expenditure in excess of the amount provided for in the annual financial estimates.” and “(d) make recommendation to the Syndicate on all matters relating to the finance of the University;”

10. Relying on the above provisions, the learned counsel for the appellant reiterated that the decision was taken in a hurried manner and without obtaining recommendation from the Finance Committee and therefore, the subsequent rejection by the Finance Committee is valid and consequently, the Writ Petitions are to be rejected since the findings made by the learned Single Judge is running counter to the statutory provisions.

11. Learned counsel for the respondents opposed the said contentions by stating that the respondents are not at fault. They have submitted their representations to redress their grievances, which was rightly considered by the Grievance Committee and a resolution was passed recommending for upgradation. Such resolution passed by the



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Grievance Committee was accepted by the Syndicate and a resolution was passed and consequently upgradation was granted and all the staff members are working in the upgraded posts. The Government Order passed subsequently would not have the effect of nullifying the resolution passed prior to the passing of the Government Order and therefore, the finding of the learned Single Judge is in accordance with law and there is no infirmity.

12. It is further contended that Section 33(8) provides power to the Finance Committee to give recommendation to the decision making authority i.e., the Syndicate, which is not disputed. Thus, the decision taken by the competent authority in the absence of recommendation cannot be termed as illegal.

13. In support, the learned counsel for the respondents relied on the judgment of the learned Single Judge in ***W.P.No.18267 of 2012 dated 21.02.2018***, in the matter of ***K.Prema and others v. Tamil Nadu Dr.M.G.R. University***, wherein the Writ Court made the following observations:



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“7. ... It is not in dispute that these three petitioners on the date of their upgradation had all the qualifications to be promoted to Personal Secretary Grade II 19.01.2007, hence while reviewing the decision of the University regarding upgradation, their such upgradation was protected. But it cannot be last sight that upgradation and promotion are two different concepts in service jurisprudence. For promotion a person moves from a post of lower grade to post of higher grade carrying higher responsibility. To accord promotion there must be a post available in the promotional grade /cadre to promote a persons from the feeder grade/ cadre. Where as in upgradation, there is no requirement of sanctioned posts. On promotion a vacancy is created in the feeder cadre but on upgradation no such vacancy is created as lower post is upgraded by exhaustion of the said post. Soon after the upgraded person vacate the post by superannuation or promotion, the post is reverted back to the lower cadre from which he was upgraded. Therefore, the objection of the University on the ground that the upgradation made beyond the sanctioned strength as such upgradation was contrary to law appears to this Court to be without any rational and also not in consonance to the principle of upgradation of a post. Hence, the upgradation of the petitioners question on that ground was misconceived. Now coming to the question their upgradation without approval of the Government, this Court is of the view no Rule or regulation was placed before this Court that respondent University cannot taken such decision in the



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absence of such approval of the Government or the Finance Committee. ...”

14. However, we do not find any relevance since the statutory provisions applicable for taking a decision by the Syndicate had not been adjudicated in the said judgment and in the present case the learned counsel for the appellant solicit our attention with reference to the mandatory procedures to be followed by the Syndicate before taking a final decision. Since the said procedure contemplated under the Statute has not been placed before the learned Single Judge in ***Dr.M.G.R. University***’s case, we are not inclined to rely upon the said order for the purpose of considering the claim of the respondents.

15. The purpose and object of the provisions in the Statute is to be followed by the decision making authority. Check and balances in a Statute and Rules are provided for efficient public administration. Thus, procedural violations, if goes to root of the matter, then the same cannot be viewed lightly. Such procedures are contemplated with an object to ensure that the decisions are taken in a transparent and democratic manner and to protect the financial interest of public administration.



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Therefore, the arguments advanced by the learned counsel for the respondents that the power of the Finance Committee is only to make a recommendation to the Syndicate, which would not invalidate the decision of the Syndicate is unacceptable.

16. Section 33(8) of the Allagppa University Act, unabmiquously stipulates that the Finance Committee **shall** make recommendations on every proposals involving investment or expenditure, for which, no provision has been made in the annual budget. It further states that the Finance Committee shall make recommendations to the Syndicate on all matters relating to the finance of the University. Therefore, the recommendations of the finance Committee is mandatory and to be obtained by the Syndicate before taking any decision on any subject touching on finance.

17. Holistic reading of Section 33(8) of the Alagappa University Act would indicate that the Power of the Finance Committee is to recommend or not to recommend, but the decision making power remains vested with the Syndicate, which is not in dispute between the parties. However, the decision making process, if contemplated under the Statue, it is to be followed scrupulously to ensure that the decision taken



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is in accordance with the provisions of the Statute in force. Therefore, we are of the opinion that the decision taken by the Syndicate without inviting the report of the Finance Committee is improper and not in violation of Section 33(8) of Alagappa University Act.

18. Though the Government Order referred in the Writ Appeals i.e., G.O.Ms.No.110, dated 12.06.2018, is inapplicable since the Syndicate passed a resolution before the Government Order, we are of the considered opinion that the said order is clarificatory in nature and issued in consonance with Section 33(8) of the Alagappa University Act. The Government Order reiterates the importance of the recommendations of the Finance Committee for taking final decision by the Syndicate and therefore, the said ground is of no assistance to the respondents.

19. Reading of the proceedings issued by the Syndicate and the subsequent decision of the Finance Committee rejecting the claim of upgradation are made without following the mandatory procedures as contemplated under Section 33(8) of Alagappa University Act and therefore, the decisions are perverse and not taken in accordance with law.



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20. The manner in which resolution Nos.171 and 172 were passed are not in accordance with the Statute and therefore, we are convinced that the decisions are to be revisited by placing the Finance Committee's recommendation and the resolution of the Grievance Committee before the Syndicate for taking a fresh decision.

21. In view of the facts and circumstances, both the resolutions passed by the Syndicate in Nos.171 and 172, dated 30.08.2018 and 03.06.2018, respectively are set aside and the appellant is directed to call for the files relating to the Finance Committee's report and other relevant documents and take a fresh decision on merits and in accordance with law, by scrupulously following the procedures as contemplated under the Act as well the Government Orders in force.

22. It is placed before us that during the pendency of the Writ Appeals Mr.Manickam, Ms.Geetha, Ms.Lakshmi, Mr.Chinniah and K.Subramanian, respondent in W.A.(MD) Nos.199, 210, 739, 207 and 201 of 2022 respectively were regularly promoted and in the regular vacancies. These facts are also to be taken into consideration by the Syndicate while taking fresh decision.



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23. In fine, the order of the learned Single Judge dated 09.03.2022, 11.03.2022 and 08.11.2022, passed in W.P.(MD)Nos.21240, 22944, 20745, 20741, 20738, 20744, 19430, 20746, 20983, 20739, 21242, 20740, 20742, 20743, 19432, 21241, 21239, 19431, 19727 of 2018 and 342 of 2019 are set aside and the Writ Appeals are allowed with the above directions. The appellant University is directed to complete the entire exercise within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

NCC :Yes/No
Index :Yes/No
SJ

[S.M.S.J.] & [V.L.N.J.]
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S.M.SUBRAMANIAM, J.
AND
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