



W.A.No. 66 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 22.04.2024

DELIVERED ON: 27.06.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE KUMARESH BABU

W.A.No. 66 of 2020

R.Issac Manuel

.. Appellant

Vs

1. The Registrar,

Tamil Nadu Agricultural University,
Coimbatore – 641003.

2. The Vice Chancellor,

Tamil Nadu Agricultural University,
Coimbatore -641003.

..Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 22.10.2019 in W.P.No.12552 of 2010.

For Appellants : Mr R.Parthiban

For Respondents : Mr.R. Sivakumar, Standing Counsel

For Mr S.Manikandan – R1 & R2



W.A.No. 66 of 2020

J U D G M E N T

D.KRISHNAKUMAR, J.

Aggrieved by the order passed by the writ court in W.P.No. 12552 of 2010, dated 22.10.2019, the present writ appeal has been filed by the appellant.

Before advertng to the submissions made by learned counsel for the parties, a brief reference to the relevant facts is necessary:

2. The respondent-University has issued advertisement in No.R3/1/2008, dated 07.07.2008 inviting applications for the post of Assistant Professor (including backlog vacancies in the scale of pay of Rs.8000-275-13500 for the subjects of Agriculture, Horticulture, Agricultural Engineering, Home Science, Forestry and all other Allied Sciences in the respondent University. The appellant who had cleared National Eligibility Test (NET) conducted by the Agricultural Scientist Recruitment Board (ICAR), New Delhi in the subject of Agronomy and subsequently completed Ph.D Degree in Agronomy in the year 2005, has applied for the said post and got selected by the respondent University by an appointment order dated 26.12.2009 and he joined duty on 13.12.2009.



W.A.No. 66 of 2020

Subsequently, the 2nd respondent issued a letter dated 18.01.2010 cancelling the appointment of the appellant stating that the appellant has not done the course work in Ph.D, therefore the marks awarded by the Screening Committee for the Ph.D are withdrawn, therefore he does not come under the zone of selection of merit. Challenging the same, the appellant has filed a writ petition in W.P.No. 1295 of 2010, the writ Court had set aside the said order of the 2nd respondent and directed to consider afresh by giving sufficient opportunity to the appellant. Accordingly, the petitioner was reinstated into service. The respondent-University has formed expert committee to consider the genuinity of the petitioner qualification in Ph.D. Based on the report of the expert committee, the appellant was removed from service by the respondent University. Challenging the appellant has again preferred a writ petition in W.P.No. 12552 of 2010. The learned Single Judge has confirmed the termination order issued by the respondent University based on the report submitted by the expert committee and dismissed the writ petition. Aggrieved by the same, the present writ appeal has been filed by the appellant.



W.A.No. 66 of 2020

3. The learned counsel for the appellant has submitted that the petitioner's selection was conducted by a Selection Committee, leading to an appointment order and subsequent joining of the respondent's university. The Learned Judge disregarded the marks awarded by the Selection Committee and by relying solely on the expert committee's opinion, has come to the erroneous conclusion that the petitioner lacked the necessary qualification of a Ph.D. Degree with Course Work.

4. The learned counsel for the appellant has further submitted that the Ph.D. program offered by Annamalai University holds recognition and approval from the Hon'ble Supreme Court. Therefore, the failure of the expert committee to recognize the Ph.D. obtained from Annamalai University contradicts this legal validation. Hence, on this ground alone, the impugned order of the learned Single Judge is liable to be set aside.

5. The learned counsel for the appellant has further submitted that the Annamalai University's status as a State University, receiving Central assistance under Section 12B of the UGC Act. As such, it's empowered to confer degrees in line with UGC norms and statutory council approvals



W.A.No. 66 of 2020

under Section 22 of the UGC Act. Therefore, any assertion that the petitioner lacks a proper degree is deemed to contravene UGC's approval for Annamalai University to award Ph.D. degrees. Further, the respondents did not dispute the grounds raised in the writ petition, particularly Ground E, concerning Annamalai University's accreditation and recognition. Therefore, the impugned order passed by the learned Judge is liable to be set aside and the appeal is liable to be allowed.

6. The learned standing counsel appearing for the respondent University has submitted that there is no dispute that the appellant had completed his Ph.D. degree in 2005 from Annamalai University. The said Ph.D. program at Annamalai University does not include coursework as part of its curriculum. However, during the selection process for the Agronomy Department, the Selection Committee mistakenly allotted 20 marks, as was done for all other Ph.D. candidates. The minimum cutoff marks for the Agronomy Department were 74.6. The appellant secured 76.56 marks, which included the inadvertently awarded 20 marks, placing him 36th in rank. Due to which he was initially appointed as Assistant Professor by an order dated 26.12.2009 and was assigned to the Rice Research Station in



W.A.No. 66 of 2020

Tirur.

WEB COPY

7. The learned standing counsel appearing for the respondent has further submitted that after the appellant's appointment, when the appellant submitted his original testimonials to the relevant department, it was revealed that his Ph.D. program from Annamalai University did not include course work. Consequently, the documents underwent reevaluation by the Screening Committee. The Chairman of the Screening Committee issued a note dated 13.01.2010, stating that in the 2009 selection of Assistant Professors, Ph.D. degrees without coursework were uniformly not considered, including those from Annamalai University. Acknowledging the oversight, the Screening Committee admitted that 20 marks were erroneously awarded to the appellant despite his Ph.D. program not including coursework. Consequently, based on the Screening Committee's note, the 2nd respondent revoked the petitioner's appointment dated 26.12.2009 by an order dated 18.01.2010, citing the withdrawal of marks awarded for his Ph.D. program.



W.A.No. 66 of 2020

8. Challenging the said order of the 2nd respondent, the appellant has filed a writ petition in W.P No. 1295 of 2010. The writ court by order dated 22.02.2010 had set aside the 2nd respondent's order dated 18.01.2010, however, granted liberty to the respondent University to reevaluate the appellant's eligibility for the Assistant Professor in accordance with the law. In compliance with the High Court's order dated 22.02.2010, the appellant was allowed to resume his duties as Assistant Professor by an office order dated 09.03.2010, pending further action by the University. The appellant rejoined the post on 09.03.2010.

9. The learned standing counsel appearing for the respondent University has further submitted that in the meantime a new committee was constituted to consider the eligibility of the appellant to hold the post of Assistant Professor in the meeting held on 29.03.2010. The appellant was present with all his supporting documents. The committee had scrutinized his application afresh along with the documents submitted by him and after due consideration, the Committee concluded that the appellant has not undergone any course work in his Ph.D programme, hence he was not



W.A.No. 66 of 2020

eligible for award of 20 marks meant for this Ph.D Degree.

WEB COPY

10. The learned standing counsel appearing for the respondent University has further submitted that the above committee report along with all other relevant materials were once again considered by the respondent University and issued order dated 05.06.2010 cancelling the appointment of the appellant to the post of Assistant Professor (Agronomy) and accordingly he was removed from the services of the respondent University. The learned Single Judge after elaborately considering all the above facts and circumstances of the case, dismissed the writ petition filed by the appellant, therefore the order of the learned Single Judge is perfectly valid and does not require any interference by this Court and the appeal is liable to be dismissed.

11. Heard the learned counsel appearing for the appellant and the learned standing counsel appearing for the respondent University and perused the documents available on record.



12. Having considering the rival submissions made by the learned counsels appearing for the parties concerned, the only point which required to be answered in this writ appeal is *Whether the petitioner has satisfied with the required qualification as per the notification issued by the respondent-University dated 07.07.2008 and the appointment made based on the said notification is valid or not?*

13. Undisputedly, the respondent university issued a notification initially on 07.07.2008 for filling the post of Assistant Professors for various categories. As per the said notification, the appellant, who possesses a Ph.D. degree, was eligible to apply for the post of Assistant Professor (Agronomy). The respondent university called the appellant for an interview and appointed him to the said post by order dated 26.12.2009. Subsequently, based on a note submitted by the Chairman of the Screening Committee, the respondent university removed the appellant from service by relying upon the UGC regulations. The appellant challenged the said removal order before this Court, and pursuant to the directions of this Court, the appellant was reinstated into service by an order of the respondent university dated 09.03.2010. Further, by relying upon the report submitted by the Expert



W.A.No. 66 of 2020

Committee dated 29.03.2010, stating that there was no evidence of his undergoing any course work during his Ph.D. program, the respondent university issued orders dated 05.06.2010, relieving the appellant from service. The said relieving order was challenged before this Court, and the learned Single Judge confirmed the said relieving order passed by the respondent university, which is under challenge in the present appeal.

14. It is seen from the records that the original notification was issued by the respondent university on 07.07.2008 for filling the post of Assistant Professors. Subsequently, the respondent university issued two revised notifications dated 10.09.2008 for regular vacancies and backlog vacancies. Thereafter, the respondent university published a newspaper advertisement on 11.09.2008 calling for applications for the post of Assistant Professors (regular vacancies). In the said notification, it was mentioned that ***"The advertisement supersedes the earlier Advertisement No. R.3/1/2008, dated 07.07.2008, and the candidates who applied in response to the above advertisement will be considered and hence, they need not apply again....."***

15. It is also relevant to point out that pursuant to the interim order



W.A.No. 66 of 2020

dated 31.08.2009 passed by this Court , the respondent university issued a 2nd revised notification on 02.09.2009 to fill up the posts of Assistant Professors (Regular vacancies). It is stated in the said notification "***This advertisement is in continuation of the Advertisements No. R.3/1/2008 dated 07.07.2008 and 10.09.2008. The candidates applied in response to the above advertisements will also be considered and hence, they need not apply again.....***"

16. As per the above revised notifications, it is clear that the said revised notifications are subsequent to the original notification dated 07.07.2008, and the respondent university clearly mentioned that the candidates who applied in response to the notification dated 07.07.2008 would be considered. Therefore, the removal of the appellant from service based on the Government Order in G.O.Ms.No. 350, Higher Education (H1) Department, dated 09.09.2009, which was issued based on the recommendation of the Committee constituted by the Government of India for the revision of scales of pay and allowances for the teachers and equivalent cadres in Universities and Government/Government Aided Colleges governed by UGC, is questionable. Undisputedly, the Government



W.A.No. 66 of 2020

Order was issued subsequent to the revised notification dated 02.09.2009.

The recommendations in the G.O. relied upon by the respondent university are extracted below:

II. PG Colleges:

..

..

(vi) National Eligibility Test (NET) shall be compulsory for appointment at the entry level of Assistant Professor, subject to the exemptions to the degree of Ph.D in respect of those persons obtaining the award through a process of registration, coursework and external evaluation, as have been/ or may be laid down by the UGC through its regulations, and so adopted by the University. NET shall not be required for such Masters' programmes in disciplines for which there is no NET.

17. The strong contention of the respondent is that pursuant to the direction of this Court in WP.No.1295 of 2010 dated 21.01.2010, an expert committee was constituted. After thorough scrutiny of the documents of the appellant, the Expert Committee came to a conclusion that the appellant did not have adequate knowledge as required for the post and also did not have the prescribed qualification, i.e., coursework in Ph.D., which is mandatory



W.A.No. 66 of 2020

for recruitment for the post of Assistant Professor as per the recommendation of the UGC and also the subsequent Government Order issued in G.O.Ms. No. 350, dated 09.09.2009.

18. As discussed in the preceding paragraphs, the 2nd revised notification dated 02.09.2009 was only a sequel to the original notification dated 07.07.2008. Admittedly, there is no modification or amendment in the said notification. The said notification was issued for filling up vacancies to the post of Assistant Professors in the respondent university in which the qualification of Ph.D. along with coursework was included as prescribed in G.O.Ms.No. 350, which came into effect from 09.09.2009. Furthermore, the said revised notification is in no way connected to the earlier notification dated 07.07.2008, and there is no mention in the subsequent revised notifications that the candidates who were appointed based on the notification dated 07.07.2008 will be reviewed. That being the position, the action of the respondent in relieving the appellant from service by relying upon the decision of the expert committee which is based on the G.O.No. 350, dated 09.09.2009, is unsustainable.



19. The Hon'ble Supreme Court and this Court have consistently held in numerous judgments that once the selection process is complete and appointments are made based on the qualifications specified in the notification, these qualifications cannot be altered subsequently. Furthermore, the appointments of those selected cannot be disrupted by modifying the qualifications in the notification.

20. After elaborate consideration of documents placed before this Court and the submissions made by the learned counsels appearing for the parties concerned, we conclude as follows:

i. Retrospective effect of Government Order G.O.Ms. No. 350:

The Government order in G.O.Ms. No. 350 Higher Education Department, dated 09.09.2009, shall be considered as having a prospective application only. This order cannot retrospectively affect the appellant's appointment, which was made based on the qualifications set forth in the original and revised notifications issued prior to the date of the Government order. The order's provisions regarding the necessity of National Eligibility Test (NET) and course work during Ph.D. for the appointment of Assistant



W.A.No. 66 of 2020

Professors were introduced after the appellant's appointment and thus do not apply to his case.

ii. Chronology and Validity of Notifications:

The revised notifications dated 10.09.2008, 11.09.2008, and 02.09.2009 were all issued before the promulgation of G.O.Ms. No. 350 on 09.09.2009. These notifications supersede the original notification dated 07.07.2008 and explicitly stated that candidates who applied in response to the earlier notification would be considered without needing to reapply. Therefore, the qualifications and criteria specified in these revised notifications govern the appellant's eligibility and appointment. The revised notifications did not incorporate the provisions of G.O.Ms. No. 350, as it was issued subsequent to these notifications.

iii. Validity of the Removal Order:

The removal order issued by the respondent university, based on the office note submitted to the Vice Chancellor and the opinion of the expert committee, is deemed invalid. These internal communications cannot supersede the criteria and qualifications specified in the original and revised



W.A.No. 66 of 2020

notifications. Furthermore, the expert committee's opinion, which found that the appellant did not have the required course work in his Ph.D., is based on the provisions of G.O.Ms. No. 350, which should not have been applied retrospectively to the appellant's appointment. The internal processes of the university, including the office note and the expert committee's findings, cannot impose new qualifications retrospectively, nor can they invalidate an appointment made in accordance with the earlier valid notifications.

21. Based on the above points, We find that the removal of the appellant from service was unsustainable in law. The appellant met the qualifications as per the notifications relevant at the time of his appointment. The appellant was appointed based on the qualifications and criteria set forth in the notification dated 07.07.2008, which did not require the additional qualifications introduced later by G.O.Ms. No. 350. Therefore, the impugned removal order issued by the respondent university is unsustainable in law and liable to be quashed.

22. In fine, the writ appeal is allowed. The impugned order of the



W.A.No. 66 of 2020

learned Single Judge is hereby set aside. The respondent university is directed to reinstate the appellant to his position as Assistant Professor (Agronomy) with all consequential benefits within a period of six weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected Miscellenous Petitions, if any , are closed.

[D.K.K., J.] [K.B., J.]

27 .06.2024

Index: yes/no

Internet:yes

Speaking Order

ak



WEB COPY



W.A.No. 66 of 2020

**D.KRISHNAKUMAR, J.,
&
K. KUMARESH BABU, J.**

ak

To

1. The Registrar,
Tamil Nadu Agricultural University,
Coimbatore – 641003.
2. The Vice Chancellor,
Tamil Nadu Agricultural University,
Coimbatore -641003.

Judgment in
W.A.No. 66 of 2020

27.06.2024