



W.P.No.14430 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	:	13.03.2024
Pronounced on	:	29.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.14430 of 2011

and

M.P.No.1 of 2011

Dr.J.S.Sayikumar

...Petitioner

Vs.

1.The Member Secretary,
Pondicherry Institute of Post Matric
Technical Education (PIPMATE),
Lawspet, Puducherry- 605 008.

2.The Principal,
Women's Polytechnic College,
Lawspet, Puducherry – 605 008.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, directing the respondents to grant HOD pay in the Pay Band Rs.37400-67000/- with Grade Pay Rs.9000/- to the petitioner with effect from 20.08.2009 and promote the petitioner to the post of HOD (Modern Office Practice) with effect from 17.03.2009, the date on which the vacancy arose with arrears of pay and allowances and seniority and all other consequential benefits.



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For Petitioner : Mr.Sai Srujan Tayi
for M/s.P.V.S.Giridhar and Sai

For Respondents : Mr.T.M.Naveen
for T.P.Manohar

ORDER

This Writ Petition is filed for directing the respondents to grant HOD pay in the Pay Band Rs.37400-67000/- with Grade Pay Rs.9000/- to the petitioner with effect from 20.08.2009 and promote the petitioner to the post of HOD (Modern Office Practice) with effect from 17.03.2009, the date on which the vacancy arose with arrears of pay and allowances and seniority and all other consequential benefits.

2.The case of the petitioner is that, petitioner was appointed as Lecturer (Commerce Department) on 31.07.1996 on officiating basis. Then he was appointed as Lecturer in regular substantive vacancy with effect from 20.08.1998. As on 20.08.2006, he completed 10 years of service in the post of Lecturer. His pay was fixed in the post of Lecturer (Selection Grade) with effect from 20.08.2006. Under the recruitment rules of the 1st respondent, a Lecturer with 10 years of regular service holding Ph.D. Degree in Commerce is eligible for promotion to the post of HOD. One K.Charles Devaraj was appointed as Senior Lecturer by direct recruitment with effect from 10.07.1998.



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Since he did not have Ph.D. Degree, he could not be appointed as HOD. One Dr.C.Vethirajan, Lecturer, was promoted to the post of HOD, having completed 10 years of service and also having acquired Ph.D Degree. Petitioner acquired Ph.D Degree (Commerce) in March 2007 and he was given two advancement increments with effect from 30.05.2007. Dr.C.Vethirajan resigned from the post of HOD and a vacancy arose.

2.1.Petitioner was the only person holding the post of Lecturer with a Ph.D degree and was fully qualified as per the then existing Recruitment Rules. However, his seniors who did not possess Ph.D had lobbied for an amendment to the recruitment rules for doing away with the requirement of Ph.D degree. Succumbing to the pressure, the general body illegally amended the recruitment rules in the year 2009, by which Senior Lecturers with 5 years of regular service failing which 10 years combined regular service as Senior Lecturer and Lecturer were alone made eligible for promotion.

2.2.Meanwhile, the All India Council for Technical Education, framed AICTE Pay scales, Service conditions and Qualifications for the Teachers and Other academic staff in Technical institutions (Diploma's) Regulations, 2010 notified gazette on 13.03.2010. As per this regulation, the post of Senior



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Lecturer was down away with effect from 13.03.2010 and post of Senior Lecturer stood abolished. As per the prevailing rules, persons holding the post of Lecturer having 10 years of regular service with Ph.D degree is eligible for promotion to the post of HOD. As per the AICTE Regulations, 2010, persons holding post of Lecturer and receiving Selection Grade Pay with Pay Band of Rs.15600-39100/- and Grade Pay of Rs.8000/-, and upon completion of 3 years in the post of Selection Grade are eligible to move to the Pay band and Grade Pay of HOD. However, petitioner was not granted the assured Pay band and Grade Pay with effect from 20.08.2009. Therefore, this Writ Petition.

3.Learned counsel for the petitioner submitted that the rightful claim of the petitioner for promotion to the post of HOD and pay is denied, but persons who did not have the requisite qualification were posted/acted/acting as HOD.

4.In reply, learned counsel for the respondent submitted that PIPMATE has been framed recruitment rules as per the norms and standards prescribed by the AICTE. On 09.06.1992, PIPMATE has framed recruitment rules for various posts. On 28.12.1995, PIPMATE amended the recruitment rules framed for teaching posts, including for the posts of HOD in Non-Engineering subjects in accordance with the new norms and standards prescribed by the AICTE. As



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per the Recruitment Rules, the method of recruitment for the post of HOD in Non-Engineering subjects is “by promotion failing which by direct recruitment and the promotion is from the grade of Senior Lecturers with 5 years of service in the cadre possessing Ph.D Degree in the appropriate discipline.”

4.1. In 1999, the AICTE changed the method of recruitment to all teaching posts. PIPMATE amended the recruitment rules on 18.12.2000 by providing provision for direct recruitment. It caused serious prejudice and hardship to the staff working in 4 Polytechnic Colleges of the PIPMATE. The Government of Puducherry framed recruitment rules for the teaching posts and published in Supplement to the Gazette No.51, dated 17.12.2002. On 15.04.2003, the Governing Body of the PIPMATE considered the recruitment rules, the welfare of its teaching staff and in order to provide promotional avenues to them, resolved to adopt the recruitment rules. It was found that the Government of Puducherry has not framed recruitment rules for the posts of Senior Lecturer or HOD in Commercial practice . Thus, PIPMATE amended the recruitment rules in consonance with the recruitment rules of the Government of Puducherry. PIPMATE prescribed that the Senior Lecturers possessing the required educational qualifications and having 5 years of regular service, are also eligible for promotion to the post of HOD.



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4.2.As per amended recruitment rules, the requirement for the post of HOD is “by promotion from the grade of Senior Lecturer with 5 years of regular service in the concerned subject/branch or Lecturer with 10 years regular service in the grade in the concerned subject/branch and possessing Ph.D in Commercial Practice.”

4.3.In 2007, PIPMATE decided to fill the post of HOD in Commercial Practice in accordance with the recruitment rules. The following persons were working as Senior Lecturers and Lecturers,

S.No.	Seniority No.	Grade	Name of the incumbents	Date of appointment
1	1	Senior Lecturer	K.Charles Devaraj	10.07.1998
2	1	Lecturer	Aroul Marie	05.06.1996
3	2	Lecturer	C.Vethirajan	07.06.1996
4	3	Lecturer	T.Rajalakshmi	02.08.1996
5	4	Lecturer	J.S.Sayikumar	20.08.1996

4.4.K.Charles Devaraj was not possessing essential qualification prescribed in the recruitment rules. Dr.C.Vethirajan possessed Ph.D and completed 10 years of regular service as Lecturer and eligible for promotion.



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Therefore, he was promoted to the post of HOD in Commercial practice. On 28.01.2009, PIPMATE amended the recruitment rules to various posts. After amendment, the method of recruitment prescribed in the recruitment rules framed for the said post is as follows,

“by promotion from the grade of Senior Lecturer (Non-Engineering) in the relevant subject/branch with 5 years of regular service in the grade, failing which senior Lecturer (Non-Engineering) with 10 years combined regular service in the grade of Senior Lecturer (Non-Engineering) and Lecturer (Non-Engineering) and should possess Ph.D with first class Master’s Degree in Commercial Practice.”

4.5.Dr.C.Vethirajan sent a letter dated 18.02.2009 informing that he was appointed as Reader in the Department of Corporate Secretaryship in the Alagappa University, Karaikudi and requested PIPMATE to relieve him from the post of HOD in Commercial Practice for 2 years. His request was accepted, subject to the condition that either he should report to the PIPMATE at the end of the lien period of 2 years or resign from the post of HOD in Commercial Practice. Dr.C.Vethirajan submitted a letter dated 10.03.2011, informing that he is continuing in the Alagappa University, Karaikudi and requested the PIPMATE to close his lien and relieve him. Thus, his lien was terminated and



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he was relieved from the post of HOD (Commercial Practice) with effect from

17.03.2011. As per the AICTE Regulations, 2010, the service conditions and qualifications for the post of teachers were modified. The post of Senior Lecturer was dispensed with and the post of Lecturer, Head of Department were retained. As per AICTE Regulation, 2010, PIPMATE revised and implemented the pay structure and other related benefits. PIPMATE was taking steps to amend the recruitment rules, as per the revised faculty norms. From 01.01.2006, there is no separate cadres of Senior Lecturer and Head of Department in the Non-Engineering subjects, including in Commercial Practice in PIPMATE. Only 6 posts of Lecturer in Commercial Practice are available in the 2nd respondent Polytechnic College.

4.6.He further submitted that there was no post of Head of Department and therefore, it cannot be filled up. Petitioner was working only as a Lecturer. On 04.01.2016, the AICTE issued a Clarification Notification on certain issues/anomalies such as qualifications, pay scales, service conditions, career advancement schemes (CAS) etc. Under the head “Faculty Norms”, the minimum Qualifications and experience for appointment of teaching posts for Non-Engineering subjects of Humanities, Sciences and Commercial Practice (Modern Office Practice) was prescribed for the first time. Therefore, this



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inclusion cannot be given a retrospective operation and can only be operated prospectively. There was no post of Head of Department existing from 2010 to 2015 in the Non-Engineering Subjects.

4.7.It is further submitted that, PIPMATE is a Society established by the Government of Puducherry. It is fully funded by the Government of Puducherry by way of Grant-in-Aids. Out of 15 posts of Head of Department, 5 posts were not fill up. There is a drastic reduction in the admission of students in diploma courses. In 2022, a policy decision was taken up by the Governing Body of the PIPMATE and the Government of Puducherry to upgrade/covert the 2nd respondent Diploma Level Institution to a Degree Level Institution. From 2022-23, the existing Diploma in Modern Office Practice Course in the 2nd respondent College was closed and approved B.Tech and B.Com Degree course have been introduced in affiliation with the Pondicherry University. After passing out of the last batch Diploma Courses on 15.03.2024, there will be no Diploma Courses in the 2nd respondent College. Thereafter, AICTE Degree Regulations and UGC Regulations alone will be applicable to the 2nd respondent College. There are only posts of Assistant Professor and Professor and no posts of Lecturer and Head of Department at all. Petitioner case is under consideration for AGP from RS.8000/- to Rs.9000/-. The Selection



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Committee has completed its process and after getting due approval from Competent Authority, the orders would be passed for upgradation of pay.

5.Considered the rival submission and perused the records.

6.From the case set out by the parties, the case of the petitioner is that he acquired Ph.d. Degree in March 2007. He was fully qualified as per the then existing rules for promotion to the post of HOD. Due to vested interest, recruitment rules were amended in 2009, by which Senior Lecturers with 5 years regular service, failing which, 10 years combined regular service as Senior Lecturer and Lecturer were alone made eligible for promotion. AICTE Regulations, 2010, abolished the post of Senior Lecturer and therefore, only from the cadre of Lecturer, the post of HOD can be filled up. Despite the fact that the petitioner is fully qualified to be promoted as HOD, he is denied of the promotion. It is his further contention that after completion of three years, the post of Selection Grade Lecturer is eligible to be moved to a higher pay band, which is also not paid to him.

7.As per 2007 recruitment rules, the qualification prescribed for the post of HOD under the promotional category was promotion from the grade of



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Senior Lecturer with 5 years of regular service in the concerned subject/branch or Lecturer with 10 years of regular service in the grade in the concerned subject/branch. The qualification of Ph.D is not prescribed in 2007 recruitment rules.

8.In 2009 recruitment rules, the qualification required for the post of HOD under the promotional category was Senior Lecturer (Non Engineering) in the relevant subject/branch with five years of regular service in the Grade, failing which Senior Lecturer (Non Engineering) with 10 years combined regular service in the grades of Senior Lecturer (Non Engineering) and Lecturer (Non Engineering). Even as per the 2009 recruitment rules, there is no requirement that one should possess Ph.D., for being considered for the post of HOD.

9.As pointed out by the learned counsel for the petitioner, as per the AICTE Regulations, 2010, which is notified on 05.03.2010, there shall be designations in respect of teachers in Polytechnics, namely, Lecturer, Head of the Department and Workshop Superintendent. The post of Senior Lecturer was dispensed with. When detailing about the faculty norms for the post of HOD, norms/qualification were prescribed only for the post of HOD



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Engineering/Technology. No norms/qualifications were prescribed for the post of HOD (Non Engineering).

10. Even in the recruitment rules, 2015, there is no Ph.D qualification required for the post of HOD. The qualification prescribed for the post of HOD under promotional category are that, Lecturer (Humanities, Science & Modern Office Practice) with 17 years of regular service in the grade rendered after appointment thereto on a regular basis and completed two AICTE approved refresher programs of not less than two weeks duration each and two one week each TEQIP sponsored programs. Thus, from the recruitment rules of 2007, 2009, 2015, AICTE regulations 2010 and the norms/qualifications prescribed for the post of the HOD, we can come to a definite conclusion that the qualification of Ph.D. is not required for consideration to the post of HOD.

11. It is the submission of the learned counsel for the petitioner that in AICTE regulations, 2010, it was mistakenly not mentioned. However, he drew the attention of this Court to the Promotion and posting of the Senior Lecturers in Polytechnic colleges of the PIPMATE Society on 01.07.2011 as HOD. He also drew the attention of this Court to the G.O. passed by the Government of Tamil Nadu for promoting the Senior Lecturers to the post of HOD through



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G.O.163 Higher Education (I2) Department, dated 01.08.2012. From these

orders we cannot come to the conclusion that the promotees had possessed Ph.D. What we can gather is that, some persons were still working as Senior Lecturers despite the fact that the post of Senior Lecturer was dispensed with through AICTE regulations, 2010.

12.The learned counsel for the petitioner drew the attention of this Court to the counter filed by the respondents, wherein, it is stated that the post of the HOD requires Ph.D. True it is that such a statement was made in the counter, which is extracted hereunder:

10. I respectfully state however, the qualifications prescribed by the AICTE for various posts are differing from the qualifications prescribed by the Govt. of Puducherry for its Polutechnic college. As a Post Matric Diploma Level Technical Educational Institution, the PIPMATE is bound to follow the qualifications prescribed by the AICTE and hence, it is not proper for it to follow the R.Rs.framed by the Govt. of Puducherry, that too, for an indefinite period. Hence on 28.01.2009, the PIPMATE has amended the R.Rs, to various posts, including to the post of Head of Department in Non-Engineering subjects. After the such amendment, the method of recruitment prescribed in the R.Rs.framed for



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the said post is as follows:

“By promotion from the grade of Senior Lecturer (Non Engineering) in the relevant subject/branch with 5 years of regular service in the grade, failing which Senior Lecturer (Non Engineering) with 10 years combined regular service in the grade of Senior Lecturer (Non Engineering) and Lecturer (Non Engineering) and should possess Ph.D. with first class Master's Degree in Commercial practice”.

13.However, the requirement to possess Ph.D. is not found in the copy of the recruitment rules 2009 produced before me. The recruitment rules 2009 produced before me just indicates that Senior Lecturer (Non Engineering) in the relevant subject/branch with 5 years of regular service in the grade, failing which Senior Lecturer (Non Engineering) with 10 years combined regular service in the grades of Senior Lecturer (Non Engineering) and Lecturer (Non Engineering).

13.The learned counsel for the petitioner drew the attention of this Court with regard to the clarification issued in 2016 by AICTE, wherein it was informed that the qualification for HOD in Modern Office Management and Secretarial Practice is that i) qualifications shall be same as for the post of



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Lecturer along with Ph.D in relevant subject. ii) 10 years experience in Teaching/Research/Industry/Training at the level of Lecturer or equivalent.

14.The learned counsel for the petitioner on the basis of this clarification projected that the qualification of Ph.D. was required all along for the post of HOD. However, we find that the qualification of Ph.D. is not required for the post of HOD in recruitment rules 2007, 2009, 2015, AICTE regulations 2010. On the basis of the clarifications issued in 2016, petitioner cannot claim that he has to be promoted as HOD. There is apparent contradictions in the recruitment rules, AICTE regulations, 2010 and the clarifications issued in 2016 with regard to the qualification of Ph.D required for the post of HOD.

15.It is the submission of the learned counsel for the respondents that there is no post of HOD available from 2010 to 2015. There is no post of Senior Lecturer and HOD available in the second respondent college from the year 2010 to 2023. Due to lack of proper response, now the diploma course was upgraded into degree course. The second respondent women polytechnic college was upgraded from diploma level to degree level and there will be no diploma courses available in the academic year 2022-23. There will be no post of HOD will also be available for the reason that as per AICTE regulations,



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2010, only the post of Assistant Professor and Associate Professor and professors are available in the degree level Institute. When there is no requirement of Ph.D, for the post of HOD as per the recruitment rules, 2007, 2009, 2015 and AICTE regulations, 2010, petitioner's claim that since he possess Ph.D. and his colleagues did not possess Ph.D., he should be considered for the post of HOD cannot be accepted. This is moreso, for the reason that, now there is no post of HOD available in view of the upgradation of the second respondent women polytechnic college and offering degree courses.

16.In this view of the matter, the petitioner's prayer for giving promotion to the post of HOD, as per AICTE regulations, 2010 cannot be considered and his claim is dismissed. However, with regard to his claim of fixation of grade pay, it is seen from the memo filed by the respondents, the admitted case of the respondents is that the process of evaluating the applications of the Lecturers, including the petitioner for AGP movement from Grade Pay of Rs.8,000/- to Rs.9000/- under the career advancement scheme is in progress. There is no dispute with regard to the fact that the petitioner is entitled for revision of his pay on completion of three years on 20.08.2009 to move to the higher pay band and grade pay i.e., Rs.37,400/- to 67,000/- with AGP of Rs.9,000/-. Thus, this writ petition is allowed in part.



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17. In fine the claim for promotion to the post of HOD in the cadre of Lecturer is dismissed and fixation of pay is allowed. Appropriate pay shall be fixed within a period of three (03) months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs.

gd/sli

29.04.2024

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

NCC: Yes/No

To

1. The Member Secretary,
Pondicherry Institute of Post Matric
Technical Education (PIPMATE),
Lawspet, Puducherry- 605 008.

2. The Principal,
Women's Polytechnic College,
Lawspet, Puducherry – 605 008.



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G.CHANDRASEKHARAN.J.,

gd/sli

**Pre-Delivery Order in
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