



W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

W.M.P.Nos.2303, 2304, 2305, 2291, 2293, 2296, 2298, 2312, 2314, 2315,
2318, 2325, 2326, 2327, 2329, 2320, 2322, 2323 of 2024

W.P.No.2147 of 2024

R.Baskar

...Petitioner

-Vs-

1. The Registrar,
Bharathiar University,
Coimbatore-641 046.
2. The Regional Joint Director,
O/o. The Regional Joint Director,
Local Fund Audit Department,
Coimbatore-641 001.
3. The Assistant Director,
Local Fund Audit,
Bharathiar University,
Coimbatore-641 046.
4. University Grant Commission (UGC),
Bahadur Shah Zafar Marg,
New Delhi-110 002.

... Respondents.



W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

Prayer in W.P.No.2147 of 2024 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in his proceedings in R.C.No.735/2021/D1 dated 18.10.2021 in Audit Report of the year 2019-2020 in Audit Slip No.30-22/2019-20 and consequential order of the 1st respondent proceedings No.E7/CAS/Pro./2022/24107 dated 01.12.2022 to the extent that promotion is granted to the petitioner without considering the petitioner's past service and to quash the same as being illegal and unsustainable in law and for a consequential direction to the 1st respondent to revise the date of promotion from 18.01.2014 to 18.01.2012 and subsequent promotions with all attendant benefits.

W.P.No.2137 of 2024

P.Shanmugam

...Petitioner

-Vs-

1. The Registrar,
Bharathiar University,
Coimbatore-641 046.
2. The Regional Joint Director,
O/o. The Regional Joint Director,
Local Fund Audit Department,
Coimbatore-641 001.
3. The Assistant Director,
Local Fund Audit,
Bharathiar University,
Coimbatore-641 046.



W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

4. University Grant Commission (UGC),
Bahadur Shah Zafar Marg,
New Delhi-110 002.

...Respondents

Prayer in W.P.No.2137 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in his proceedings in R.C.No.735/2021/D1 dated 18.10.2021 Audit Report of the year 2019-2020 in Audit Para No.30-2/2019-20 and consequential order of the 1st respondent in his letter No.E7/Audit Report 2019-20/Objection/2022/2030-1 dated 04.02.2022 by revising the date of promotion and consequential order of the 1st respondent proceedings No.E7/CAS.Pro/2022/24107 dated 01.12.2022 to the extent that promotion is granted to the petitioner without considering the petitioner's past service and to quash the same as being illegal and unsustainable in law and for a consequential direction to the 1st respondent to revise the date of promotion from 24.09.2014 to 02.02.2011 and subsequent promotions with all attendant benefits.

W.P.No.2151 of 2023

V.Kaviyarasu

...Petitioner

-Vs-

1. The Registrar,
Bharathiar University,
Coimbatore-641 046.
2. The Regional Joint Director,
O/o.the Regional Joint Director,
Local Fund Audit Department,
Coimbatore-641 001.



W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

3. The Assistant Director,
Local Fund Audit,
Bharathiar University,
Coimbatore-641 046.

4. University Grant Commission (UGC),
Bahadur Shah Zafar Marg,
New Delhi-110 002.

...Respondents

Prayer in W.P.No.2151 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in his proceedings R.C.No.735/2021/D1 dated 18.10.2021 Audit Report of the year 2019-2020 in Audit Para No.30-21/2019-20 and consequential order of the 1st respondent in letter No.E7/Audit Report 2019-20/Objection/2022/2030-1 dated 04.02.2022 by revising the date of promotion and consequential order of the 1st respondent proceedings No.E7/CAS.Pro/2022/24107 dated 01.12.2022 to the extent that promotion is granted to the petitioner without considering the petitioner's past service and to quash the same as being illegal and unsustainable in law and for a consequential direction to the 1st respondent to revise the date of promotion from 31.01.2013 to 31.01.2011 and subsequent promotions with all attendant benefits.



W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

W.P.No.2155 of 2024

V.Brindha Priyadarisini

...Petitioner

-Vs-

1. The Registrar,
Bharathiar University,
Coimbatore-641 046.
2. The Regional Joint Director,
O/o.The Regional Joint Director,
Local Fund Audit Department,
Coimbatore-641 001.
3. The Assistant Director,
Local Fund Audit,
Bharathiar University,
Coimbatore-641 046.
4. University Grant Commission (UGC),
Bahadur Shah Zafar Marg,
New Delhi-110 002.

...Respondents

Prayer in W.P.No.2155 of 2024: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in his proceedings R.C.No.735/2021/D1 dated 18.10.2021 Audit Report of the year 2019-2020 in Audit Para No.30-21/2019-20 and consequential order of hte 1st respondent in letter No.E7/Audit Report 2019-20/Objection/2022/2030-1 dated 04.02.2022 by revising the date of promotion and consequential order



W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

of the 1st respondent proceedings No.E7/CAS.Pro/2022/24107 dated 01.12.2022 to the extent that promotion is granted to the petitioner without considering the petitioner's past service and to quash the same as being illegal and unsustainable in law and for a consequential direction to the 1st respondent to revise the date of promotion from 31.01.2013 to 31.01.2011 and subsequent promotions with all attendant benefits.

W.P.No.2156 of 2024

P.Shanmugam

...Petitioner

-Vs-

The Registrar,
Bharathiar University,
Coimbatore-641 046.

...Respondent

Prayer in W.P.No.2156 of 2024: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent in his proceedings No.E7/2018/5535-24 dated 09.07.2018 to the extent that promotion is granted to the petitioner from the post of Assistant Professor Stage-I to Assistant Professor Stage-II with effect from 24.09.2012 and Assistant Professor Stage-II to Assistant Professor Stage III w.e.f. 24.09.2017 and consequential order of the respondent in his proceedings No.E7/CAS Pro/2022/24107 dated 01.12.2022 to the extent that promotion is granted to the petitioner from the post of Assistant Professor Stage-III to Associate Professor Stage-IV with effect from 24.09.2022 and to quash the same as being illegal and unsustainable in law and for a consequential direction to



W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

the 1st respondent to revise the date of promotion from 24.09.2012 to 02.02.2011 and subsequent promotions with all attendant benefits.

(In all W.P.s')

For petitioners : Mrs.N.Kavitha Rameshwar

COMMON ORDER

These writ petitions have been filed challenging the proceedings issued by the 2nd respondent dated 18.10.2021 and 09.07.2018 thereby revised the pay scale and refixed the same and also ordered to recover the excess payment from the petitioner.

2. The petitioners have been appointed as Lecturer in the department of Social Work, Economics, Statistics, Microbial Bio-Technology in the first respondent's university on 12.01.2008 and 31.01.2009 respectively. Their services were regularized from the date of joining and their probation was also declared on 08.02.2011, 03.10.2011, 02.11.2011 with effect from 17.01.2010, 22.01.2010, 01.02.2011, 31.01.2011. The university had called for applications under the Career Advancement Scheme (hereinafter called as "CAS") and the petitioners



W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

made their application for promotion from Stage-I to Stage-II as an Assistant Professor. Accordingly, the first respondent promoted the petitioners from Assistant Professor Stage-I to Stage-II with effect from 18.01.2014, 02.02.2013, 31.01.2013, 23.01.2011 in the pay band of Rs.15600-39100 with AGP of Rs.7000/-.

3. As per the CAS norms, the petitioners are eligible for counting of past services as Lecturer/Guest Lecturer, Senior Research Fellow at D.G.Vaishnav College, Chennai, Government Arts College, C.Mutlur, Chidambaram, Captain Srinivasa Murti Drug Research Institute for Ayurveda, Ministry of Health and Family Welfare, Government of India, Arignar Anna Government Hospital Campus, Arumbakkam Chennai and Bharathiar University, Coimbatore during the periods 08.12.2003 to 31.05.2004, 01.07.2004 to 31.05.2005, 01.07.2005 to 31.05.2006 & 01.07.2006 to 30.06.2007, 01.09.2001 to 05.01.2005, 20.08.2003 to 31.03.2004 & 02.07.2004 to 31.03.2005, 17.10.2003 to 25.08.2005 respectively. It is also to be counted for the purpose of promotion under CAS. They had also completed one orientation course that was held from



W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

20.01.2010 to 16.02.2010, 07.05.2010 to 03.06.2010, 15.09.2016 to 05.10.2016 & 07.05.2010 to 03.06.2010 and one refresher course from 15.07.2016 to 04.08.2016 & 03.09.2014 to 23.09.2014, 15.09.2016 to 05.10.2016 & 01.02.2012 to 21.02.2012 respectively as required under the norms. They were given promotion with effect from 18.01.2014, 02.02.2013, 31.01.2013, 23.01.2016 & 02.02.2013 by an order dated 05.08.2014, 29.04.2013 respectively. However, the counting of their past services have not been carried out and their promotion were not revised from 02.02.2011, 18.01.2012, 23.01.2019.

4. The third respondent had raised an audit objection by way of Audit Slip dated 18.10.2021. In pursuant to the circular issued by the first respondent dated 09.07.2021, called for application from eligible faculty members for promotion under UGC-CAS. The petitioners submitted their application for their promotion from Assistant Professor Stage II to Stage III along with necessary documents. However, it was not considered. In respect of their reply to audit slip forwarded by the first respondent, it is pending. Once again, the first respondent communicated the same by the letter dated



W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

02.02.2022. Though the petitioners made several representations to the audit objection raised by the third respondent, it was not considered. The requirement for orientation and refresher course for promotion due under the CAS shall not be mandatory upto 31.12.2018. However, the audit slip is still pending and kept alive.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. The learned counsel appearing for the petitioner relied upon the order passed this Court in ***W.P.No.20558 of 2018*** dated 15.06.2022 in the case of ***Dr.A.Balamurugan Vs. The Barathiar University***, as follows:-

“15. Now the controversy is in a very narrow compass, and the issue to be decided is as to whether the petitioner is entitled to get promotion to the post of Assistant Professor Stage-II with effect from 07.03.2013 or from 14.06.2014.

16. The only hurdle for the petitioner to get such promotion from 07.03.2013 instead of 14.06.2014 is that, the petitioner completed the refresher course only on 13.06.2016,



W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

which was one of the essential qualification as per the 2010 Regulations.

17. However, the 2018 UGC Regulations made it clear that till 31.12.2018 the requirement of orientation and refresher course shall not be treated as mandatory one, and thereby that can be dispensed with. Therefore, based on the requirement of refresher course or orientation course the promotion need not be delayed to any incumbent like the petitioner in view of the 2018 UGC Regulations, which has in fact been adopted by the State Government in G.O.Ms.No.5 dated 11.01.2021. Therefore, the benefit of the UGC Regulations 2018 followed by the Rule of the State Government, which adopted the 2018 Regulations can very well be extended to the petitioner. If that being so, the petitioner would be entitled to hold the post of Assistant Professor Stage II with effect from 07.03.2013 instead of 14.06.2014. Therefore, this Court feels that the impugned order can be interfered with to that extent.

18. In the result, the following orders are passed in this writ petition.

** That the impugned order giving promotion to the petitioner to the post of Assistant Professor Stage II to the extent 'with effect from 14.06.2014' is hereby set aside.*



W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

** As a sequel, there shall be a direction to the respondent University to confer such promotion to the petitioner ie., Assistant Professor Stage II with effect from 07.03.2013 and accordingly the consequential service benefits also can be conferred on the petitioner.*

** The needful as indicated above shall be undertaken by the respondent University within a period of eight weeks from the date of receipt of a copy of this order.”*

Thus, it is clear that till 31.12.2018, the requirement of orientation and refresher course shall not be treated as mandatory one and it can be dispensed with.

7. Further the Hon'ble Division Bench of this Court in the judgment dated **20.10.2023** passed in ***W.A.No.224 of 2023 etc.***, batch in the case of ***Dr.R.Prabhakaran Vs. The Registrar, Bharathiar University and ors.***, held that even if the State government is a body that funds the university, the State government cannot under the guise of auditing the accounts of the university, interfere with the internal administration of the



W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

university, which power of the university includes the power to make appointments as well as further promotions. Therefore, the third respondent completely ignored the factual background as well as the circumstances in which the petitioners claim to be appointed as Assistant Professors in the first respondent university under the UGC plan and more importantly, that it was beyond their power as well as jurisdiction under the Tamil Nadu Local Fund Audit Act, 2014 as well as under the Bharathiar University Act, 1981, to have raised objections with regard to the validity of the appointments made under the UGC XI Plan. Further the UGC regulations of the year 2018 have also been adopted by the Government in G.O.Ms.No.5 Higher Education Department, dated 11.01.2021, wherein it has reiterated the requirement of orientation and refresher course for promotion due under the CAS shall not be mandatory upto 31.12.2018. Hence, the impugned proceedings shall not be sustained and liable to be quashed.



W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

8. Accordingly, the impugned proceedings dated 18.10.2021, viz.,

WEB COPY in R.C.No.735/2021/D1 dated 18.10.2021 and Proceeding No.E7/2018/5535-24 dated 09.07.2018 in Audit Report of the year 2019-2020 in Audit Slip No.30/22/2019-20, 30-21/2019-20 & passed by the second respondent, is hereby quashed and all these Writ Petitions stand allowed. Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

01.02.2024

Index : Yes/No
Internet: Yes/No
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W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

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W.P.Nos.2147, 2137, 2151, 2155 & 2156 of 2024

G.K.ILANTHIRAIYAN,J.
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W.P.Nos.2147, 2137, 2151, 2155 &
2156 of 2024

01.02.2024