



W.P.No.2483 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 07.02.2024

Delivered on: 30.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE G. CHANDRASEKHARAN

W.P.No.2483 of 2010

Dr. C. Sreekumar S/o. M. Sundareswaran

... Petitioner

Vs.

1. The Registrar,
Tamil Nadu Veterinary and
Animal Sciences University,
Chennai – 600 051.

2. The Vice – Chancellor,
(Chairman-Selection Committee),
Tamil Nadu Veterinary and
Animal Sciences University,
Chennai-600 051.

3. Dr. N. Balaraman,
(Ex-Vice Chancellor),
Plot No.27, Rajalakshmi Nagar,
Madipakkam, Chennai-600 091.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Proceeding Endt. No.15598 / A / RIA / 2006 dated 21.01.2009, quash the same in so far as awarding marks and consequently direct the 1st respondent to re-evaluate the marks and confer



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career advancement as Associate Professor to the petitioner with effect from 18.06.2006 with all consequential benefits including arrears of pay, seniority and all other benefits.

For Petitioner : Mr. R. Syed Mustafa

For Respondents : Mr. S. Vijayakumar, Senior Counsel for
Mr. G. Bharadwaj [for R1 & R2]

R3 – No appearance.

ORDER

(Order of the Court was made by G. Chandrasekharan,J.)

This Writ Petition has been filed by the petitioners to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in Proceeding Endt. No.15598 / A / RIA / 2006 dated 21.01.2009, quash the same in so far as awarding marks and consequently direct the 1st respondent to re-evaluate the marks and confer career advancement as Associate Professor to the petitioner with effect from 18.06.2006 with all consequential benefits including arrears of pay, seniority and all other benefits.



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2. The case of the petitioner in brief is as follows:-

The petitioner joined the 1st respondent university as Assistant Professor on 26.06.1994. He has been serving Tamil Nadu Veterinary and Animal Sciences University teaching undergraduate and post graduate students. He was the best recipient of the Best outgoing Bachelor of Veterinary Science Student award during his undergraduate years. His Ph.D. thesis has been evaluated as the Best Research Thesis of 2002 in Veterinary Sciences in India. He was awarded the prestigious Jawaharlal Nehru Award by the Indian Council for Agricultural Research. He has been trained in cutting edge research in molecular parasitology under the guidance of eminent parasitologist Dr. J.P. Dubey at the Animal Parasitology Unit of the United States Department of Agriculture for 3 years. He has also excelled in the field of research in Molecular Parasitology and have published 55 research articles.

3. The Tamil Nadu Veterinary and Animal Sciences University called for applications for career advancement Scheme (CAS 2005-06) through its Circular No.22218/R.III/2005 dated 31.12.2005, prescribing the cut-off date for all qualifications as 31.12.2005. Clause 11 of guidelines stated that “the period of extraordinary leave (EOL) availed for higher



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studies including Ph.D programme shall not count as qualifying service for the purpose of career advancement". Aggrieved by this, he filed a Writ Petition in W.P. No.1620 of 2006 and this Court granted stay of Clause 11 and operation of the impugned university order on 23.01.2006. He was provisionally called for interview subject to withholding his result pending Writ petition. The interview was conducted on 16.10.2006 and the result was published on 17.06.2006. His name did not appear in the list of selected candidates. This Court set aside both Clause 11 of the notification as well as the impugned University order and directed the University to treat the periods of EOL for higher studies availed by him as qualifying service for CAS on 19.12.2007. The appeal filed by the University was not admitted by the First Bench of this Court. Thereafter, the University provided his mark list of CAS 2005-06. The extract of the mark list is as follows:-

Sl. No.	Name	Expe rienc e(10)	Far m/V UT RC (5)	Stu dent guid ed (5)	Med al / Awa rds	Pub licat ions (12)	Tec hno logy (6)	PDF (1)	Extr a Assi gn. (5)	Fun ds obta ined (6)	Pers onal File (5)	Tota l (60)	Viv a- voce (40)	Gra nd Tot al (100)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
1	C. Sree kumar	5	-	-	-	5.6	-	1	-	-	1.5	13.1	15	28.1

4. From the mark list, it is seen that the petitioner had not scored the



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requisite 40 marks. Prior to interview on 16.06.2006, the key for selection of candidates was changed on 13.06.2006. This was made after the credentials of all the candidates were known. The changes were made in the new key to reduce the marks awardable to him. The original key and the changed key are produced below:-

Sl. No.	Parameters	Original Key CAS 2004-05 (Total – 100) from date of joining to cut off date of CAS	Key changed on 13.06.2006 (Total – 100) (acquired during assessment period)
1	Funds through projects	10	6
2	Medals / Awards	5	5
3	Service	10	10
4	Farm Service	5	5
5	Students guided	5	5
6	Postdoctoral fellowship	2	1
7	Publications	20	12
8	Extra assignment	5	5
9	Institutional development	5	-
10	Personal file	5	5
11	Innovations	8	6
12	Viva-voce	20	40
13	Cut off for selection	50	40

The introduction of new Clause “acquired during assessment period” limited the marks that would be awarded to the petitioner. Petitioner was placed in Senior Scale (SS) only in April 2005. Thus, only those papers



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published after becoming SS (from 2005) was considered for evaluation.

In effect, only 9 out of 44 publications were considered. Had the original key for selection been followed, all the 44 publications would have been considered. This resulted in petitioner unjustly divested of the 3 marks eligible to him by way of medals (2 marks for the prestigious Jawaharlal Nehru Award for the best Ph.D-2003 and 1 mark for Best Paper Award – 2002). He had also been deprived of the benefit of adding 1 mark for the service rendered by him as Programme Officer for National Service Scheme.

5. When the petitioner was denied marks for the credentials acquired by him before 2005, for some other candidates medals acquired by them before getting Senior Scale, have been considered and they were awarded marks, which has been detailed in the tabular form below:-

Sl. No.	Name of Candidate (Specialization)	Name of the Award (marks allotted in Key)	Year acquired	Senior Scale on	Marks awarded
1	Dr. A. Sangaran (Veterinary Parasitology)	J.P. Dubey Young Scientist's Award (1)	1995	1 st March 2002	1
2	Dr. R. Ramprabhu (Veterinary Medicine)	ICAR Junior Fellowship (1)	1992	1 st March 2002	1



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Sl. No.	Name of Candidate (Specialization)	Name of the Award (marks allotted in Key)	Year acquired	Senior Scale on	Marks awarded
3	Dr. A. Srithar (Veterinary Microbiology)	1. Dr. Masillamony Medal for best Ph.D Student (1)	20 th February 2002	1 st March 2002	2
		2. Sri Perumal Naidu medal for best Ph.D. Student (1)		1 st March 2002	
			20 th February 2002		
4	Dr. P. Sridevi (Obstetrics and Gynaecology)	1. Best Young Scientist – Indian Society for Study of Animal Reproduction (1)	February 1999	1 st March 2002	3
		2. Dr. Luktuke Award – Indian Society for Study of Animal Reproduction (1)			
		3. Best Young Scientist – Indian Society for Study of Animal Reproduction (1)	October 2001	1 st March 2002	
			October 2001	1 st March 2002	
5	Dr. C. Sreekumar (Veterinary Parasitology)	1. Indian Assoc. for Adv. Of Vet. Parasitol-Best Paper Award (1)	October 2002	1 st April 2005	Nil (3 marks denied)
		2. Indian Council for Agricultural Research – Jawaharlal Nehru Award for best Ph.D. thesis (2)	July 2003		
Sl. No.	Name of Candidate (Specialization)	Publication (marks allotted in Key)	Year Published	Senior Scale on	Marks awarded
1	Dr S.C. Edwin (Poultry Science)	1. Indian Journal of Poultry Science (0.5)	2002	2005	3.1



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Sl. No.	Name of Candidate (Specialization)	Publication (marks allotted in Key)	Year Published	Senior Scale on	Marks awarded
		2. Indian Journal of Poultry Science (0.5)	2004		
		3. Sixteen Popular articles (0.1 mark each)	1995 to 2004		
		4. Five training manuals (0.1 mark each)	2002 to 2004		
2	Dr. T.V. Meenam Bigai (Animal Biotechnology)	1. Indian Journal of Comparative Microbiology Immunology and Infectious Diseases (0.5)	Paper accepted on 19 th January 2006#	#cut off date for all records was 31 st December 2005	0.5
		2. As above.	Paper accepted on 3 rd June 2006	2005	0.5
3	Dr. C. Sreekumar (Veterinary Parasitology)	35* publications (list attached) (12)	1995 to 2004	2005	NIL (6.4 marks awarded 5.6 marks for only those 9 papers published after 2004)



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Sl. No.	Name of Candidate (Specialization)	Extra Assignment (marks allotted in Key)	Period	Senior Scale on	Marks awarded
1.	Dr. P. Sridevi (Obstetrics and Gynaecology)	1. Member-Board of Director, MVC Students' co-operative stores (1 per year)	29.05.98 to 29.06.01	1 st March 2002	2
		2. Deputy Warden-MVC Hostel (1 per year)	04.06.99 to 09.06.2000	1 st March 2002	
2.	Dr. C. Sreekumar (Veterinary Parasitology)	1. Programme Officer – National Service Scheme (1 per year – minimum 6 months)	02.01.1997 to 09.10.1997	1 st April 2005	Nil (1 mark denied)

The mark for viva-voce was set at an abnormally high at 40% from its original 20%. The marks for viva-voce should not be fixed more than 20% as per the settled proposition of law. Despite an impressive academic and research records and performing well in the interview, petitioner had been awarded lowest marks. The mark list was not revised by adding 5 marks for experience by including the period of EOL spent by the petitioner as qualifying service for CAS, in the light of the Court verdict. This amounts to contempt of Court. If proper marks were awarded, petitioner would have secured 43.5 as detailed in the following table:-



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Sl. No.	Name	Expe rienc e (10)	Far m/V UT RC (5)	Stu dent guid ed (5)	Med al / Awa rds	Pub licat ions (12)	Tec hno logy (6)	PDF (1)	Extr a Assi gn. (5)	Fun ds obta ined (6)	Pers onal File (5)	Tota l (60)	Viv a- voc e (40)	Gra nd Tota l (100)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
1	C. Sree Kumar	10 ^a	-	-	3 ^b	12 ^b	-	1	1 ^b	-	1.5	28.5	15	43.5 ^c

In such circumstances, this petition has been filed.

6. Elaborating the petitioner's case, the learned counsel for the petitioner submitted that the key was deliberately changed just prior to three days before the interview after knowing the credentials of the applicants to see that the petitioner would not get selected. Even the changed key was not uniformly applied. Some of the candidates were awarded marks for the credentials they have acquired prior to their becoming Senior Scale. Despite the order of this Court directing the Registrar to treat the period of extraordinary leave for higher studies availed by the petitioner as qualifying service, he was awarded only 5 marks instead of 10 marks. The selection process was not properly intimated in the notification dated 31.12.2005. If anyone gets 40 marks in the interview, he will get selected even if he gets 0 marks in other areas. It



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is clear that fixing 40 marks for interview and cut off mark for selection process is completely arbitrary. Dr. A. Sangaran, Dr. R. Ramprabhu and Dr.T.V. Meenambigai have been awarded excessive marks for the credentials they acquired prior to becoming Senior Scale. Dr. A. Sangaran mentioned about only J.P. Dubey Young Scientist's Award. He was awarded one mark for the credentials, which is not referred in the application. Dr. R.Ramprabhu mentioned only two awards but he was awarded 3 marks. Cut off date for T.V. Meenambigai was 31.12.2005, but she had been obtained Certificate on 19.01.2006. It is submitted that the petitioner was unjustly denied the post of Assistant Professor under Career Advancement Scheme.

7. In support of his contention, the learned counsel for the petitioner has relied upon judgment in *Assam Public Service Commission and others vs. Pranjal Kumar Sarma and others reported in (2020) 20 Supreme Court Cases 680* , for the proposition that “*norms existing on the date selection process begin will control selection and alteration to norms would not affect ongoing process unless new Rules are give retrospective effect*”. The learned counsel has also relied upon judgment in *Director General, Indian Council for Agricultural Research and others vs. D. Sundara Raju reported in (2011) 6 Supreme Court Cases 605* for the



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proposition that ***“marks for viva-voce should not be highly excessive”***.

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8. In reply, the learned Senior counsel appearing for the respondent submitted that Local Fund Audit, during the audit has objected to orders permitting to count EOL period as qualifying service for pension and career advancement. In the 51st meeting held on 24.06.2004, the Board of Management has discussed the matter in detail and decided to reject the request for counting the period of EOL availed for higher scientific and technical studies including Ph.D programme as qualifying service for the purpose of Career Advancement. By proceedings in U.S.O. No.20116 / A1/ 2004, dated 25.06.2004, instruction was given to cancel all the entries made in Service Registers with regard to counting of service towards qualifying service for pension and Career Advancement. Petitioner challenged this in W.P. No.1620 of 2006 and the same was allowed by this Court and directed the respondent to treat the period of EOL availed by the petitioner as qualifying service for conferment of Selection Grade under Career Advancement Scheme. It was taken into consideration. Even if the petitioner is awarded 10 marks towards experience, that would not take him to the minimum marks required i.e., 40 marks.

9. The learned Senior counsel for the respondent further submitted that in terms of the rules and regulations prescribed by the University



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Grants Commission, the Selection Committee is empowered to fix the norms for awarding the marks for each selection and the same has been done strictly to select the candidates on merits and according to the qualification. In order to select candidates purely on merits, the Selection Committee chose to introduce key for selection of candidates on 13.06.2006 based upon the assessment period. Though the key for selection of candidates was modified three days prior to the interview, it is obvious that it would apply not only to the petitioner but also to all the candidates. The marks allotted for publication was done by the selection Committee depending upon the nature of research done by the candidates. Marks cannot be awarded mechanically based upon the publications submitted by the candidates.

10. It is further contended by the learned Senior counsel for the respondent that the Selection Committee is an expert body who alone can decide to award marks based upon the nature of publication submitted by the candidates. It is not open to the petitioner to question the mode of selection. The Selection Committee awarded marks purely on merits. Petitioner has not secured any marks during the assessment period in respect of medals, publication and therefore he was not awarded any marks.

There is no discrimination in awarding of marks with regard to the medals,



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publication and extra assignment. Petitioner's claim that he was not awarded marks for the medals, publications and that he was denied marks on other aspects are not true. He has not secured minimum required marks and therefore, he was not elevated as Associate Professor under Career Advancement Scheme.

11. It is seen from the recommendation of the Selection Committee out of 4 candidates including the petitioner called for interview, only three appeared. Based on the qualification, service and performance in the interview, the Selection Committee found that none was found eligible. When none was found eligible, the allegation that the other participants had been shown favour by the Selection Committee by awarding high marks, is utter false. Petitioner had only challenged the communication with regard to results / recommendations of the Selection Committee. He has not challenged the notifications, guidelines, key to marks and the selection of other candidates. Therefore, this Writ petition is not maintainable either on facts or under law.

12. This Court cannot act as an Appellate Court to deal with regard to award of marks by the Selection Committee. The learned Senior



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Counsel appearing for the respondents 1 and 2, in support of his submission, brought the attention of this Court, the judgment in W.A. No.793, 794, 867 and 868 of 2013 for the proposition that “*the Courts must be extremely cautious in exercising judicial review in academic matters, since it falls within the domain of experts in the field*”.

13. Considered the rival submissions and perused the materials available on record.

14. The Tamil Nadu Veterinary and Animal Sciences University, vide its Circular No.22218/R.III/2005 dated 31.12.2005 invited applications for elevation of various categories of posts including the post of Associate Professor from the eligible candidates of Tamil Nadu Veterinary and Animal Sciences University. As per the above Circular, the eligibility for elevation to the post of Associate Professor are:

- (a) Ph.D. Degree
- (b) Completed 5 years of service in the Assistant Professor Senior Scale (OR) a total service of 9 years with Ph.D.,
- (c) Participated in 2 Refresher Courses / Summer Institute each of approximately 3 to 4 weeks duration or engaged in other appropriate continuing education programmes after becoming Senior Scale.



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(d) Made some mark in the area of Scholarships / Research.

(e) Consistently good performance.

Class XI of this Circular about the guidelines for applying for Career Advancement of Teachers states that “***The period of EOL availed for higher scientific and technical studies including Ph.D. programme shall not count as qualifying service for the purpose of Career Advancement***”.

Against this condition, petitioner filed the Writ petition in W.P. Nos.1620 and 42146 of 2006 for calling of records of the 1st respondent in Proceedings dated 31.10.2006 in so far as the petitioner is concerned and its consequential relieving order passed by the 2nd respondent dated 31.10.2006 and to quash the same. Both the Writ petitions were disposed of by this Court vide a common order dated 19.12.2007. This Court quashed the proceedings of the 1st respondent dated 25.06.2004 and the consequential Clause 11 of the guidelines issued along with the notification dated 31.12.2005 and directed the 1st respondent to treat the period of extraordinary leave availed by the petitioner from 03.01.1998 to 03.05.2001 and from 22.11.2001 to 07.12.2004 as qualifying service for conferment of selection grade under Career Advancement Scheme. The other Writ petition in W.P. No.42146 of 2006 challenging the transfer dated 31.10.2006, was allowed.



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16. The Tamil Nadu Veterinary and Animal Sciences University filed W.A. No.775 of 2008 against the order passed in W.P. No.1620 of 2006 wherein this Court, on the undertaking given by the University, held that ***“the University will treat the period of extraordinary leave availed by the respondent as qualifying service for conferment of Selection Grade under Career Advancement Scheme and the said relief will not be treated as precedent for others”***. The said Writ appeal was disposed of after recording the submission made by the learned counsel appearing for the University.

16.1. There is no doubt that the petitioner had taken leave for his educational purpose and the same would be treated as his duty period for consideration under Career Advancement Scheme. It is also submitted by the learned counsel appearing for the respondent that the petitioner should have been awarded 10 marks for experience, taking into consideration his length of service.

17. So far as the challenge made by the learned counsel for the petitioner alleging that the keys were changed three days prior to the interview and therefore, petitioner was deprived of marks for the awards



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conferred, publications made prior to award of Senior Scale in April 2005, from the typed set of papers filed along with the petition, it is seen that the petitioner sent representations to the Registrar, Tamil Nadu Veterinary and Animal Sciences University on 08.01.2010 and 18.01.2010 detailing about his grievances especially with regard to the award of marks to the persons named in the representation dated 18.01.2010, for the awards conferred, publications made by them prior to their becoming Senior Scale status.

18. The details given in letter dated 18.01.2010 in Table are extracted herein for better appreciation:

- *“While awarding marks for medals, the medals acquired by me in 2002 have not been considered. However, those acquired before the 'assessment period' have been evaluated for other candidates, as can be seen below:-*

Sl. No.	Name of Candidate (Specialization)	Name of the Award (marks allotted in Key)	Year acquired	Senior Scale on	Marks awarded
1	Dr. A. Sangaran (Veterinary Parasitology)	J.P. Dubey Young Scientist's Award (1)	1995	1 st March 2002	1
2	Dr. R. Ramprabhu (Veterinary Medicine)	ICAR Junior Fellowship (1)	1992	1 st March 2002	1
3	Dr. A. Srithar (Veterinary Microbiology)	1. Dr. Masillamony Medal for best Ph.D Student (1) 2. Sri Perumal Naidu medal for best Ph.D.	20 th February 2002	1 st March 2002	2



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Sl. No.	Name of Candidate (Specialization)	Name of the Award (marks allotted in Key)	Year acquired	Senior Scale on	Marks awarded
		Student (1)	20 th February 2002	1 st March 2002	
4	Dr. C. Sreekumar (Veterinary Parasitology)	1.Jawaharlal Nehru Award for best Ph.D. thesis (2) 2. Best Paper Award (1)	2002 2002	2005	Nil

It can be seen that 3 marks have been unjustly denied for me on the pretext that they were acquired just 3 years before conferment of senior scale in 2005. Thus these medals have neither been evaluated for senior scale nor for Associate Professor elevation.

- *While awarding marks for publications, only those 9 papers published in 8 months (between April 2005 and December 2005) have been evaluated for me. On the other hand, papers published before the 'assessment period' and accepted for publication after the cut-off period have been evaluated for other candidates, as can be seen below:*

Sl. No.	Name of Candidate (Specialization)	Publication (marks allotted in Key)	Year Published	Senior Scale on	Marks awarded
1	Dr S.C. Edwin (Poultry Science)	1. Indian Journal of Poultry Science (0.5)	2002	2005	0.5
		2. Indian Journal of Poultry Science (0.5)	2004		0.5
		3. Sixteen Popular articles (0.1 mark each)	1995 to 2004		1.6
		4. Five training manuals (0.1 mark each)	2002 to 2004		0.5



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Sl. No.	Name of Candidate (Specialization)	Publication (marks allotted in Key)	Year Published	Senior Scale on	Marks awarded
2	Dr. T.V. Meenam Bigai (Animal Biotechnology)	1. Indian Journal of Comparative Microbiology Immunology and Infectious Diseases (0.5)	Paper accepted on 19 th January 2006#	#cut off date for all records was 31 st December 2005	0.5
		2. As above.	Paper accepted on 3 rd June 2006	2005	0.5
3	Dr. C. Sreekumar (Veterinary Parasitology)	35* publications (12) Total of 44 publications by 2005	1995 to 2004	2005	NIL (marks awarded 5.6 marks for only those 9 papers published after April 2005)

Thus, while papers published before the 'assessment period' and accepted for publication after the prescribed cut-off date have been evaluated and marks awarded for others, only 9 papers out of 44 have been evaluated and marks awarded for me.

It is vividly clear that the marks have been awarded without any semblance of consistency. A perusal of just 13 records show arbitrary awarding of marks in 5 cases. My plea is not that the marks awarded to the above candidates be cancelled and their performance re-evaluated”.

It is the submission of the learned counsel appearing for the petitioner that this sample exercise shows arbitrary award of marks.



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19. On going through the marks awarded, this Court finds that Dr. A. Sangaran was awarded 1 mark for J.P. Dubey Young Scientist's Award acquired in the year 1985 where as he got Senior Scale position on 01.03.2002. Dr. R. Ramprabhu was awarded 1 mark for ICAR Junior Fellowship acquired by him on 1994, whereas he was conferred Senior Scale only on 01.03.2002. Similarly, Dr. A. Srithar was awarded 1 mark for acquiring Dr. Masilamony Medal for best Ph.D. Student and Sri Perumal Naidu medal for best Ph.D. student on 20th February 2002, but he got Super Scale only on 01.03.2002. Petitioner who acquired Jawaharlal Nehru award for best Ph.D thesis and best paper award in the year 2002, was awarded no marks.

It is submitted that Dr. S.C. Edwin and Dr. T.V. Meenambigai have not participated in the interview. Therefore, it is not necessary to consider the marks awarded to them.

20. From the details given in petitioner's representation dated 18.01.2010 to the Registrar, Tamil Nadu Veterinary and Animal Sciences University, it is apparent that Dr. A. Sangaran, Dr. R. Ramprabhu and Dr. A. Srithar had been awarded marks for the awards, medals that they



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secured prior to their conferment of Senior Scale. It is certainly discriminatory when the petitioner was not awarded any mark for the medals, awards and publications secured by him prior to grant of Senior Scale to him. It is true that ultimately none got selected for the reason that no one secured the basic required marks of 40 for elevation as Associate Professor. Merely for the reason that others were not selected, the petitioner's case cannot be thrown out, especially there are materials available to show, despite the Court order, petitioner was not awarded full 10 marks for experience but he was awarded only 5 marks, Dr. A. Sangaran and Dr. R. Ramprabhu were awarded 1 mark each for the awards, medals acquired by them prior to grant of Senior Scale. Whether the petitioner would get 43.5 marks or not, he would have secured not less than 33.5 marks. Had he been awarded marks for the awards / medals, publications made by him prior to the grant of Senior Scale, like the aforesaid persons, certainly he would have secured more than 33.5 marks.

21. The learned counsel appearing for the petitioner, in support of his contention, has relied upon judgment in *Assam Public Service Commission and others vs. Pranjal Kumar Sarma and others reported in (2020) 20 Supreme Court Cases 680*, in which it has been held that



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“norms existing on the date selection process begin will control selection and alteration to norms would not affect ongoing process unless new Rules are given retrospective effect”.

The relevant paragraphs are extracted hereunder for better appreciation:

“15. The law with regard to applicability of the Rules which are brought anew during the selection process have been crystalised by this Court. It has been held that the norms existing on the date when the process of selection begins, will control the selection and the alteration to the norms would not affect the ongoing process unless the new Rules are to be given retrospective effect (see State of Bihar v. Mithilesh Kumar). Similarly, in N.T. Devin Katti v. Karnataka Public Service Commission, this Court held that a candidate has a limited right of being considered for selection in accordance with the Rules as they existed on the date of advertisement and he cannot be deprived of that limited right by amendment of the Rules during the pendency of the selection. Unless the Rules are to be applied retrospectively.

16. If we proceed with the above enunciation of the law in Mithilesh Kumar and N.T. Devin Katti, the conclusion is inevitable that for the current recruitment process for which advertisement was issued on 21.12.2018, the 2019 procedure (which came into effect from 01.04.2019) can have no application, particularly when the first phase of the selection ie., the screening test was conducted under the 2010 Rules”.

21.1. The learned counsel has also relied upon judgment in ***Director General, Indian Council for Agricultural Research and others vs. D. Sundara Raju reported in (2011) 6 Supreme Court Cases 605*** for the



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proposition that ***“marks for viva-voce should not be highly excessive”***.

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The relevant paragraphs are extracted hereunder for better appreciation:

26. *The learned counsel for the respondent, Mr. Mridul submitted that 50% marks allocated for interview were highly excessive and rendered the selection of the candidates arbitrary. He placed reliance on a judgment of this Court in Ashok Kumar Yadav v. State of Haryana, wherein the Court observed as under: (SCC p. 450, para 23)*

“23.....the object of any process of selection for entry into public service is to secure the best and the most suitable person for the job, avoiding patronage and favouritism. Selection based on merit, tested impartially and objectively, is the essential foundation of any useful and efficient public service. So open competitive examination has come to be accepted almost universally as the gateway to public services. But the question is how should the competitive examination be devised? The competitive examination may be based exclusively on written examination or it may be based exclusively on oral interview or it may be a mixture of both. It is entirely for the Government to decide what kind of competitive examination would be appropriate in a given case. To quote the words of Chinnappa Reddy, J. 'In the very nature of things, it would not be within the province or even the competence of the Court and the Court would not venture into such exclusive thickets to discover ways out, when the matters are more appropriately left' to the wisdom of the experts. It is not for the Court to lay down whether the interview test should be held at all or how many marks should be allowed for the interview test. Of course the marks must be minimal so as to avoid charges of arbitrariness, but not necessarily always. There may be posts and appointments where the only proper method of selection may be by a viva voce test. Even in the case of admission to higher degree courses, it may sometimes be necessary to allow a fairly high percentage of marks for the viva voce test. That is why rigid rules cannot be laid down in these matters by Courts. The expert bodies are generally the best judges. The Government aided by experts in the field may appropriately decide to have a



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written examination followed by a viva-voce test”.

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21.2. In the case on hand, there is no doubt that the University has right to frame rules and guidelines and key for the purpose of selection process. But change of key, just three days prior to interview is not just and fair, especially after knowing the credentials of all the candidates. The allegations made by the petitioner is that the respondents deprived of the benefit of marks to the petitioner for his medals / awards / publications acquired by him prior to the grant of Senior Scale by changing the key, only with a view to reject him.

21.3. As per the judgment of Hon'ble Supreme Court in ***Assam Public Service Commission and others vs. Pranjal Kumar Sarma and others reported in (2020) 20 Supreme Court Cases 680***, it is held that "norms existing on the date of selection process begin will control selection and alteration to norms would not affect ongoing process unless new Rules are given retrospective effect". The key as on the date of Circular i.e. 31.12.2005 will alone prevail. Therefore, this Court is inclined to set aside the recommendation of the Selection Committee under the Career Advancement Scheme of Tamil Nadu Veterinary and Animal Sciences University dated 16.06.2006 communicated to the petitioner through



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impugned communication vide Endt. No.15598/A/RIA/2006 dated 21.01.2009 and directs the respondents to conduct a fresh selection process on the basis of the key that was announced before 31.12.2005 for the selection of Associate Professor under the Career Advancement Scheme.

22. In the light of the above said discussions and decision, this Court is of the view that, it is not necessary to challenge the notification, guidelines and key etc., Since no one has got selected, none would be prejudiced by this order and rather they would get another opportunity.

23. In fine, the proceedings in Endt. No.15598/A/RIA/2006 dated 21.01.2009 is set aside and the respondents are directed to consider the petitioner and other applicants on the basis of key that was prevailing before 31.12.2005, taking into consideration the guidelines of the Hon'ble Supreme Court with regard to the fact that marks for viva-voce should not be exceed more than 20% and decide the selection of candidates for the post of Associate Professor under Career Advancement Scheme. In case, if the petitioner is found eligible in the selection process based on the key prevailing before 31.12.2005, petitioner shall be given the post of Associate Professor under Career Advancement Scheme, with all other attendant



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benefits from the year 2006 onwards.

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24. With the above directions, this Writ petition stands allowed. No

Costs. Connected miscellaneous petition is closed.

30.04.2024

Internet : Yes

Index: Yes/No

Neutral Citation: Yes/No

mjs

To

1. The Registrar,
Tamil Nadu Veterinary and
Animal Sciences University,
Chennai – 600 051.

2. The Vice – Chancellor,
(Chairman-Selection Committee),
Tamil Nadu Veterinary and
Animal Sciences University,
Chennai-600 051.

3. Dr. N. Balaraman,
(Ex-Vice Chancellor),
Plot No.27, Rajalakshmi Nagar,
Madipakkam, Chennai-600 091.



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G. CHANDRASEKHARAN, J.,

(mjs)

Pre-delivery judgment in
W.P.No.2483 of 2010

30.04.2024