



WEB COPY



W.P.No.26967 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P.Nos.26967 and 25603 of 2015
and M.P.No.1 of 2015

W.P.No.26967 of 2015

Dr.P.Vasanth Kumar

.. Petitioner

Vs.

1. University of Madras
Rep by its Registrar
Chennai 600 005.
2. The Vice Chancellor,
University of Madras,
Chennai 600 005.
3. The Selection Committee,
University of Madras,
Chennai 600 005.
4. Dr.G.Rajasekar,
Assistant Professor,
Department of Legal Studies,
University of Madras,



W.P.No.26967 of 2015

Chennai 600 005.

5. University Grants Commission,
Bahadur Shah Zafar Marg,
Chennai 110 002,
Rep by its Secretary

.. Respondents

W.P.No.25603 of 2015

P.Manivel

...Petitioner

VS

1. University of Madras
Represented by its Registrar,
Chepauk, Chennai 600 005.
2. The Vice Chancellor,
University of Madras,
Chepauk, Chennai 600 005.
3. Dr.G.Rajasekar,
Assistant Professor,
Department of Legal Studies,
University of Madras,
Chennai 600 005.
5. University Grants Commission,
Bahadur Shah Zafar Marg,
Chennai 110 002,

....Respondents



W.P.No.26967 of 2015

WEB COPY

Prayer in W.P.No.26967 of 2015 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration, declaring that the appointment of 4th respondent as Assistant Professor in the Department of Legal Studies of University of Madras as null and void and consequently, direct the respondents 1 and 3 to select and appoint the petitioner herein as Assistant Professor in the Department of Legal Studies of the first respondent University.

Prayer in W.P.No.25603 of 2015 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Quo Warranto, calling upon the third respondent to show cause by what authority he claims to have use, enjoy and perform the rights, duties and privileges of the Office of the Assistant Professor in the Department of Legal Studies in the 1st respondent University and consequently directing the respondents 1 and 2 to remove him from the said post.

* * *

W.P.No.26967 of 2015

For Petitioner : Mr.K.Rajasekaran

For Respondent-1: Mr.A.S.Vijayaragavan

For Respondents



W.P.No.26967 of 2015

-2 & 3 : Served-No appearance

For Respondent-4: Mr.L.Murugan

For Respondent-5: Mr.P.R.Gopinathan

W.P.No.25603 of 2015

For Petitioner : Mr.K.Rajasekaran

For Respondent-1: Mr.A.S.Vijayaragavan

For Respondent-2: Mr.R.Vijayakumar

For Respondent-3: Mr.L.Murugan

For Respondent-4: Mr.P.R.Gopinathan

COMMON ORDER

Both the writ petitions seek to challenge the appointment of one Dr.G.Rajasekar as the Assistant Professor, Department of Legal Studies, University of Madras, who has been arrayed as the 3rd respondent in W.P.No.25603 of 2015 and the 4th respondent in W.P.No.26967 of 2015.

2.W.P.No.25603 of 2015 is the quo-warranto calling upon the third respondent to show cause on what authority the third respondent seeks to use, enjoy and perform the rights, duties and privileges of the Office of the Assistant Professor in the Department of Legal Studies in



W.P.No.26967 of 2015

the 1st respondent University and consequently directing the respondents 1 and 2 to remove him from the said post.

3. W.P.No.26967 of 2015 has been filed to declare the appointment of the 4th respondent as the Assistant Professor in the Department of Legal Studies of University of Madras as null and void and consequently direct the respondents 1 and 3 to select and appoint the petitioner as Assistant Professor in the Department of Legal Studies of the 1st respondent University.

4. The arguments were primarily addressed in W.P.No.26967 of 2015. Since the orders passed in this writ petition would have a direct bearing on W.P.No.25603 of 2015, this Court is considering the facts of W.P.No.26967 of 2015 moreso because the petitioner in W.P. No. 26967 of 2015 is the wait listed candidate.

5. It is the case of the petitioner that he had completed his



W.P.No.26967 of 2015

B.L.Degree in the year 2004 and thereafter, he joined M.L.degree in the subject “International Law and Organization” in the year July 2005 and obtained an M.L.Degree in April, 2007. Thereafter, the petitioner had worked as a Guest Lecturer in Government Law College, Chengalpet for one year. Subsequently, he had pursued his Ph.D programme in the year 2008 and was awarded P.hd Degree by the Department of Legal Studies, University of Madras in November 2011. Even prior to his obtaining Ph.D Degree, he had been selected as a part time Guest Lecturer in the very same department for teaching “International Law and Constitutional Law”. The petitioner has also successfully qualified the National Eligibility Test (NET) conducted by the University Grants Commission (UGC).

6. The petitioner would submit that while he was working as a Guest Lecturer in the Department of Legal Studies, University of Madras, applications were called for the post of Assistant Professor in



W.P.No.26967 of 2015

International Law by the Tamil Nadu Dr.Ambedkar Law University, Chennai. He was selected and appointed as Assistant Professor in the Tamil Nadu Dr.Ambedkar Law University.

7. In December 2013, applications were invited from eligible candidates for the post of Assistant Professor in various departments, including the Legal Studies Department, Madras University. As per the notification, only one post was to be filled up, as it comes under General Quota (GT). The notification was silent about the relevant subject in M.L.Degree. Although M.L International law and Organization and M.L. Constitution Law and Legal Order were the two master programmes offered by the University of Madras, on account of this vague notification not specifying the relevant subject, all M.L.degree holders had applied including the petitioner. The petitioner would submit that he had been issued with the call letter and he had attended the interview on May 2014. From out of



W.P.No.26967 of 2015

the 20 candidates, only two candidates qualified one of which was the petitioner who possesses an M.L.degree in International Law with Ph.D degree.

8. It is the case of the petitioner that he is the only person having M.L.Degree in International Law with Ph.D qualification and NET qualification. Therefore, he was under the genuine impression that he would be invited for the post of Assistant Professor in the Department of Legal Studies University of Madras. However, to his shock and surprise, the fourth respondent was appointed. The fourth respondent possessed an M.L.Degree in Administrative Law and was not qualified in NET. The petitioner was selected and he was kept as a wait listed candidate by the selection committee. The petitioner's grievance is that the University of Madras only offers two M.L. courses and Administrative Law was not one such subject. That



W.P.No.26967 of 2015

apart, the fourth respondent had not possessed the NET qualification which is one of the criteria framed under the UGC Regulations. Therefore, the petitioner has come forward with this writ in question.

9. The 5th respondent-UGC alone had filed a counter to this writ petition and in the other W.P.No.25603 of 2015, the first respondent and the fifth respondent, who is the fourth respondent therein has filed their counter. The 5th respondent, in their counter, would submit that as per their Regulations, namely, the *University Grants Commission (Minimum qualifications for appointment of Teachers and other Academic Staff in Universities and Colleges and other Measures for the Maintenance of Standards in Higher Education) Regulations, 2010*, Regulation 3.0.0 dealt with the Recruitment and Qualification for the posts of Assistant Professors, Associate Professors and Professors. Regulation 3.2.0 stipulates the minimum qualifications required for the posts of Assistant professors and others. Regulation



W.P.No.26967 of 2015

3.3.0 prescribed a minimum requirement of a good academic record, 55% marks (or an equivalent grade in a point scale wherever the grading system is followed) at the Master's level and qualifying in the National Eligibility Test (NET) or an accredited test (State Level Eligibility Test-SLET/SET) for the appointment of Assistant Professors. Regulation 3.3.1 further provides that NET/SLET/SET would remain the minimum eligibility conditions for recruitment and appointment of Assistant professors in Universities/Colleges/Institutions. The proviso to this Regulation provides an exemption. The candidates who were awarded the Ph.D Degree in accordance with the *University Grants Commission (Minimum Standards and Procedure for Award of Ph.D Degree) Regulations, 2009*, hereinafter called the Ph.D. Regulations, were exempted from this minimum eligibility condition of NET/SLET/SET. Relaxation under the Regulations is only with reference to the marks and it was made clear that a Ph.D would be the mandatory



W.P.No.26967 of 2015

qualification. The 5th respondent has only set out the qualifications that are required to be appointed as Assistant Professor and has not touched upon the eligibility or otherwise of the fourth respondent.

10. Mr.K.Rajasekaran, learned counsel for the petitioner would vehemently make his submissions on two points to show that the 4th Respondent had not qualified.

- a)That the petitioner did not possess an M.L. degree in the relevant subject and*
- b)He has not qualified NET.*

To support his arguments he would refer to the General Essential Qualifications that has been appended to the appointment notification dated 15.12.2013. This appointment notification was for filling up 95 posts of Assistant Professors in the University Departments situated at Chepauk, Marina, Guindy and Tharamani campuses for which



W.P.No.26967 of 2015

applications were called for. He would submit that as per Clause(i) of the General Essential Qualifications, all the applicants should have a good academic record with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) at the Masters Degree level in the relevant subject from an Indian University, or an equivalent degree from an accredited foreign University. In addition to this, the candidate must have cleared the NET conducted by the UGC, CSIR or similar tests accredited by the UGC like SLET / SET. The General Essential Qualifications also provided that only those candidates who have been awarded a Ph.D degree in accordance with the Regulations, would be exempt from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment. He would emphasize on the fact that General Essential Qualifications clearly prescribe that the applicant should possess a Master Degree in the relevant subject. The learned counsel would submit that the University of Madras offers only International Law and Constitutional



W.P.No.26967 of 2015

Law as subjects in its Master Degree Courses. Therefore, it must be interpreted that relevant subjects would mean only International Law and Constitutional Law and since the fourth respondent possessed a Master's Degree in Administrative Law, he was not qualified.

11. In support of this argument, the learned counsel for the petitioner would draw the attention of this Court to the order of a learned single Judge of this Court in W.P.No.10930 of 2010 wherein this Court has held that teachers, who are specialized in the relevant subjects, have to be appointed. He would also draw the attention of this Court to another order of a learned Single Judge in a batch of Writ Petition No.3028 of 2007 etc where the question involved was *“whether the State of Tamil Nadu was correct in omitting to notify that the candidates who had applied for the post of Lecturer (Senior Scale) must have their Post Graduate Degree in the relevant subject”*.

The learned Judge, while quashing the notification as ultravires,



W.P.No.26967 of 2015

directed the State to amend the Special Rules, in accordance with the UGC Regulations and thereafter, request the TRB to recruit candidates for the post of Lecturers in accordance with law. This was challenged before the Division Bench of this Court and the Division Bench had upheld the judgment and disposed of the appeals with directions. He would therefore submit that since the fourth respondent did not possess the Master's Degree in the relevant subject, his appointment was tainted. He would also emphasize on the fact that the fourth respondent has not qualified NET, particularly when the fourth respondent had got his Ph.D in the year 2007, i.e much prior to UGC Regulations of 2009. Therefore, he is not exempt from the eligibility of NET.

12. Mr.P.R.Gopinathan, learned counsel for the fifth respondent would submit that the qualification prescribed under the UGC Regulations made it clear that NET/SLET/SET is the minimum qualification for the post of Assistant Professor and only those persons



W.P.No.26967 of 2015

who have obtained a Ph.D post the Ph.D Regulations, 2009 are exempt from the requirement of the minimum eligibility condition of NET/SLET/SET All the applicants have to mandatorily possess the said qualification as it is a part of the UGC Regulations.

13. The learned counsel appearing for the University of Madras had also made his submissions stating that the fourth respondent in this writ petition had qualified in the subject of Administrative law in his Master's Degree and that he passed his Ph.D in the year 2007.

14. Heard the learned counsels and perused the materials available on record.

15. The first ground of challenge namely that the 4th Respondent is not possessing the relevant subject cannot be countenanced for the simple reason that the courses for which applications were invited



W.P.No.26967 of 2015

required only a good academic record, 55% marks (or an equivalent grade in a point scale wherever the grading system is followed) at the Master's level and qualifying in the National Eligibility Test (NET) or an accredited test (State Level Eligibility Test-SLET/SET). The notification did not prescribe any particular subject for which applications were invited. The fourth respondent possessed a Master's Degree in Administrative Law, which is also a special Law. In the judgments that have been referred to by the learned counsel for the petitioner, there were notifications for the posts of lecturers in respect of the specified subjects. In that case, a specialization in the relevant subject was required and that is the observation of the learned Single Judge who had passed the order in W.P.No.10930 of 2010. Therefore, the first argument questioning the appointment of the fourth respondent has to be necessarily rejected.

16. As regards to the arguments on the position of the minimum eligibility of NET, it would be necessary to extract the Regulation



W.P.No.26967 of 2015

3.3.0 and 3.3.1 of the Ph.D Regulation, 2009.

WEB COPY

“3.3.0. The minimum requirements of a good academic record, 55% marks (or an equivalent grade in a point scale wherever grading system is follow) at the master's level and qualifying in the National Eligibility Test (NET), or an accredited test (State Level Eligibility Test – SLET/SET), shall remain for the appointment of Assistant Professors.

3.3.1 NET/SLET/SET shall remain the minimum eligibility condition for recruitment and appointment of Assistant Professors in Universities/Colleges /Institutions.

Provided however, that candidates, who are or have been awarded a Ph.D.Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D Degree)



WEB COPY



W.P.No.26967 of 2015

Regulations, 2009, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities / Colleges / Institutions.”

Therefore, from a reading of Regulations 3.3.0 and 3.31, it is clear that a candidate should mandatorily qualify in the NET or an accredited test in SLET/SET. The only exemption to this Rule is where the candidate had been awarded a Ph.D. decree in accordance with the Ph.D Regulations 2009. Admittedly in the instant case, the fourth respondent has obtained his Ph.D Degree in the year 2007 and his Ph.D has not been awarded in accordance with Ph.D Regulations, 2009. Therefore, the fourth respondent had to necessarily qualify for the NET which unfortunately he has not qualified. Therefore, in the light of the above, his appointment as Assistant Professor is against the regulations set out in Ph.D Regulations, 2009 and is therefore



W.P.No.26967 of 2015

declared as null and void. Considering the fact that the petitioner is the wait listed candidate, the University of Madras shall take steps to appoint him as Assistant Professor in the Department of Legal Studies of the first respondent University. W.P.No 25603 of 2015 is therefore allowed as prayed for.

17. In the light of W.P.No.25603 of 2015 being allowed no further orders are required to be passed in the W.P. No 26967 of 2015 and the same is closed. There shall be no order as to costs. Consequently, M.P. is closed.

10.07.2024

Index : Yes/No

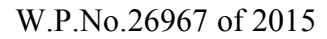
Internet : Yes

srn

To

1. The Registrar,
University of Madras
Chennai 600 005.

19/21



- 20/21



WEB COPY



W.P.No.26967 of 2015

P.T.ASHA, J.

srn

W.P.No.26967 of 2015
and M.P.No.1 of 2015

10.07.2024