



W.P. No.4933 of 2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P. No.4933 of 2015
and M.P. Nos.1 and 2 of 2015

Dr.Debabrata Karmakar

... Petitioner

Vs.

1.The Union of India

Rep. By the Secretary to Government,
Ministry of Shipping, Transport Bhawan,
Sansad Marg, New Delhi-110 001.

2.Vice Chancellor,

Indian Maritime University, Chennai,
Headquarter East Coast Road, Uthandi,
Chennai-600 119.

3.The Registrar,

Indian Maritime University,
Chennai, Headquarter, East Coast Road,
Uthandi, Chennai-600 119.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for records pertaining to the proceedings dated 05.08.2013 issued by the 3rd Respondent quash the same and direct the respondents to permit the petitioner to continue in duty as Assistant Professor in School of Naval Architecture and Ocean Engineering in the 3rd



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Respondent University as per the appointment order vide proceedings No.IMU/EST/HQ/STAFF/01/FACUL/NA/AP002/2012 dated 04.12.2012.

For Petitioner : Mr.R.Vivekanandan
for Mr.B.Ravi

For Respondents : Mr.K.Srinivasa Murthy
Standing Counsel (for R2 and R3)

ORDER

The writ petition is filed challenging the proceedings dated 05.08.2013 issued by the 3rd Respondent, quash the same and direct the respondents to permit the petitioner to continue in duty as Assistant Professor in School of Naval Architecture and Ocean Engineering in the 3rd Respondent University as per the appointment order vide proceedings No.IMU/ EST/ HQ/ STAFF/ 01/ FACUL/ NA/ AP002/ 2012 dated 04.12.2012.

2. In response to the recruitment notification issued by the Respondent University namely Indian Maritime University for filling up 63 posts of Professor, Associate Professor and Assistant Professor in various fields published in various newspapers, the petitioner submitted an application for the post of Assistant Professor in Ocean Engineering and accordingly after conducting the selection process the petitioner herein was appointed as Assistant Professor, Ocean Engineering through proceedings dated 04.12.2012. While the petitioner was working as such the impugned proceedings dated 05.08.2013 came to be issued by the Respondent University cancelling the appointment of the petitioner



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as Assistant Professor in School of Naval Architecture in Respondent University.

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3. Aggrieved by the said order of cancellation, the petitioner issued a notice dated 27.02.2014 to the Respondents and in response to the same the Respondent University informed the petitioner that there are similar orders of cancellation challenged before the Court and matter is subjudice. It is thereafter, the batch of writ petitions that were filed by the similarly situated persons challenging the orders of cancellation in W.P.Nos.14262 of 2013 and batch cases, the learned Single Judge of this Court allowed the batch of writ petitions vide order dated 05.01.2015.

4. Aggrieved by the same, writ appeals were filed by the respondent University in W.A.Nos.592 of 2015 etc., and finally the matter landed before the Hon'ble Apex Court. The Hon'ble Apex Court while dealing with the individual cases passed different orders in various Civil Appeals. In the meanwhile, the petitioner approached this Court by filing the present writ petition in the year 2015 challenging the impugned cancellation order on various grounds.

5. One of the reasons mentioned in the impugned order is that the petitioner was not possessing the requisite qualification for holding the post for



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which he was appointed. The petitioner herein has submitted an application for the post of Assistant Professor in Ocean Engineering. In terms of the notification issued by the Respondent University, in order to be eligible for the post of Assistant Professor, one must possess an educational qualification of Master's Degree with at least 55% marks or its equivalent qualification. He must also have qualified in National Eligibility Test conducted by CSIR or similar test accredited by the University. Ph.D. is a desirable qualification. From the application submitted by the petitioner, it is evident that the petitioner has submitted application for the post of Assistant Professor in Ocean Engineering. From the format of application provided by the University, the petitioner should possess Master's Degree in the relevant discipline. The relevant discipline in the case of the petitioner is Ocean Engineering. As seen from the copy of the application submitted by the petitioner, the petitioner possesses Master's Degree in Mathematics and not in Ocean Engineering, and the petitioner possesses a Ph.D. in Ocean Engineering and Naval Architecture. But Ph.D. is only desirable and not mandatory. The mandatory qualification is only a P.G. Degree in the relevant discipline. It is not in dispute that any candidate in order to be eligible for the post of Assistant Professor must possess Master's Degree in the relevant discipline and the same is also evident from the notification and the application format given by the University. In the instant case, the petitioner has a Master's



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Degree in Mathematics and not in Ocean Engineering.

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6. The main ground of attack of the impugned order is on violation of principles of natural justice, as the petitioner has been continuing as Assistant Professor and the impugned order came to be issued all of a sudden without putting the petitioner on notice.

7. As already noted, the above order of the learned Single Judge of this Court found fault with the similar cancellation orders, which was confirmed by the learned Division Bench of this Court by order dated 15.03.2016. When the matter was taken up before the Hon'ble Apex Court, the Hon'ble Apex Court having taken note of the factual matrix in each of the cases dealt each case separately. In C.A.No.4930 of 2022, the Apex Court having taken note of the fact that the Respondent therein was not possessing the requisite qualification to hold the post for which he was appointed, allowed the appeal filed by the Respondent University upholding the cancellation of the appointment of the Respondent in the said case. It is brought to the notice of this Court that the Respondents in the said Civil Appeals are out of service till the pendency of the litigation and there was no interim protection granted in their favour. Whereas in C.A.No.4929 of 2022, the Hon'ble Apex Court by order dated 26.07.2022 remanded the matter



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back to the Respondent University with a direction to the Respondent University to afford an opportunity to the petitioner to show cause why his appointment should not be cancelled and to pass an order. In this connection, it is necessary to note that the Respondents in the Civil Appeal has obtained an order before this Court during the pendency of this litigation they have been continuing in service. It is considering the said fact that the Hon'ble Apex Court remanded the matter back to the Respondent University setting aside the cancellation orders on the ground of violation of principles of natural justice. Thus, the Hon'ble Apex Court has taken different views depending on the factual situation in the respective matters. In the cases where the Professors or Assistant Professors are continuing in service by virtue of the interim orders obtained from this Court, the Hon'ble Apex Court remanded the matter back for affording them an opportunity. In the case where the employees are not continuing in service, the Hon'ble Apex Court adopted a different view and allowed the appeals filed by the Respondent University upholding the cancellation orders.

8. In the instant case, as already noted above, the petitioner herein is also out of service since the date of passing the impugned order and the petitioner has also approached this Court after a period of two years of issuing the impugned order. As already noted above, the petitioner was not possessing Master's Degree



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in relevant discipline, therefore, this Court is not inclined to remand the matter back by setting aside the impugned order on the ground of violation of principles of natural justice.

9. In the admitted facts of the present case, the petitioner is found ineligible to be appointed as Assistant Professor in Ocean Engineering. In the circumstances, this Court is in agreement with the order passed by the Hon'ble Apex Court in C.A.No.4929 of 2022 dated 26.07.2022 which is similar to the factual situation of the case on hand. In the light of the above, this Court does not find any reason to interfere with the impugned cancellation order. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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MUMMINENI SUDHEER KUMAR, J.

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- 1.The Secretary to Government,
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