



W.P.Nos.10211 of 2024, etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.10211, 10214, 10216, 10219, 10223, 10236, 10239, 10241, 10243, 10244, 10255, 10259, 10261, 10265, 10268, 10354, 10357, 10359, 10362, 10365, 10391, 10393, 10392, 10394, 10397, 10395, 10398, 10399, 10400, 10402, 10401, 10404, 10405, 10407, 10937, 10938, 10941, 10945, 10946, 10950, 10952 & 16256 of 2024, 10960, 10958, 10963, 10964, 10966, 10968, 10974 of 2024 & 24952 of 2023

WP.No.10211 of 2024

Dr.M.Vijay

... Petitioner

Vs.

1.The Vice Chancellor,
Annamalai University,
Annamalai Nagar,
Chidambaram,
Cuddalore District 608 002

2.The Registrar,
Annamalai University,
Annamalai Nagar,
Chidambaram,
Cuddalore District 608 002

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus directing the respondents herein to place the petitioner as Professor with effect from 16.02.2017



W.P.Nos.10211 of 2024, etc. batch

along with all attended benefits pursuant to the interview call letter by the respondents in Office Memorandum No.C/2019 dated 14.03.2019.

For Petitioner : Mr.K.M.Vijayan,
Senior Counsel
for M/s.K.M.Vijayan Associates
Assisted by Mr.R.Shivakumar

For Respondents : Mr.S.Sithirai Anandam,
Standing Counsel

COMMON ORDER

These writ petitions have been filed for direction to the respondents to place the respective petitioners as Professor along with all attended benefits pursuant to the interview call letter of the respondents.

2. The issue in all the writ petitions is common and as such, this Court is inclined to pass common order.

3. The petitioners joined in the service of the respondents University and thereafter they were awarded appropriate promotions and increments as per the Rules. While being so, by the notification dated 08.08.2018, the respondents invited applications from eligible candidates



W.P.Nos.10211 of 2024, etc. batch

for the post of Associate Professor and Professor in various Departments.

The petitioners applied for both the posts. Since they are eligible for both the posts, their applications were scrutinised and they were called for interview to be conducted on 17.03.2019 for the said post under career advance scheme. Though interview was conducted for two posts, the respondents by their order dated 29.05.2019 designated some of the petitioners as Associate Professor with effect from 16.02.2014, but the order is silent about their promotion in respect of the post of Professor. Therefore, the petitioners and other faculties represented before the respondents from the year 2019 onwards. However, it was not considered and as such some of the faculties approached this Court and this Court directed the respondents to dispose of the representations submitted by the faculties by an order dated 18.01.2021.

3.1 Thereafter, the respondents by their memorandum dated 30.04.2021 informed that the eligible candidates have not actually served as Associate Professor and even a single day for claiming the second promotion as Professor thereby applying the principles of direct double



W.P.Nos.10211 of 2024, etc. batch

promotion and rejected the claim made by the faculties. Aggrieved by the same, writ petitions were filed and all the writ petitions were dismissed by common order dated 27.04.2022. Aggrieved by the same, writ appeals were filed and by common order dated 13.07.2023, all the writ appeals were allowed by the Hon'ble Division Bench of this Court. Aggrieved by the same, the respondents preferred appeal before the Hon'ble Supreme Court of India and the same was also dismissed. Now they filed review petition and review is pending before the Hon'ble Division Bench of this Court as against the order passed in batch of writ appeals.

4. The learned counsel appearing for the petitioners submitted that even after allowing the writ appeals, the case of the petitioners are not considered and even after dismissing the SLP, the respondents filed review and it is pending. Review application is nothing to do with the prayer sought for in these writ petitions. The advancement in the career was originally covered by the University Grants Commission Regulations, 2000 issued by the University Grants Commission dated 04.04.2000 together with all amendments from time to time.



W.P.Nos.10211 of 2024, etc. batch

Subsequently, University Grants Commission issued Regulations on minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges and measures for the maintenance of standards in higher education, 2010.

5. Clause 1.3 says that in the event, any candidate becomes eligible for promotion under career advancement scheme in terms of these regulations on or after 31.12.2008, the promotion of such a candidate shall be governed by the provisions of these Regulations. There are two types of recruitment, in which one type is direct recruitment to the post of Assistant Professor, Associate Professor and Professor and second by following the career advancement scheme in line with the above referred minimum requirement regulation(CAS). The petitioners will come under the second category and as such, the petitioners were recruited as Lecturer and subsequently recognised as Associate Professor. Therefore, they are eligible to be designated as Professor if they are otherwise eligible under the referred minimum qualification. The applications of the petitioners were duly scrutinised by



W.P.Nos.10211 of 2024, etc. batch

the Screening cum Evaluation Committee from the eligible candidates for promotion of Assistant Professor to Associate Professor and Associate Professor to Professor as recommended by the third respondent Evaluation Committee and were called for interview for the post of Associate Professor and Professor before the Selection Committee. Though Finance Committee accepted the selection with the respondents and issued orders that the petitioners were entitled for the benefit to designate as Associate Professor from 16.02.2014 instead of 16.02.2017.

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

7. On perusal of the counter filed by the second respondent, revealed that as per the notification, applications were called for from eligible candidates for promotion as Associate Professors/Professors under the Career Advancement Scheme(CAS). 2297 applications were received. All the applications were scrutinised by the Evaluation Committee. Thereafter eligible candidates were given promotion as



W.P.Nos.10211 of 2024, etc. batch

Associate Professor with retrospective effect from as and when they become eligible for CAS promotion. Some of the faculties who were not selected, challenged the order and also sought for enquiry with regard to selection process in WP.No.1556 of 2020. This Court disposed of the writ petition and the Hon'ble Division Bench of this Court in WA.No.1321 of 2022 dated 12.04.2022, directed the High Level Committee to complete the enquiry and take final decision on merits and in accordance with law after giving opportunity of hearing to all the parties concerned within a period of eight weeks. That apart, other batch of writ petitions were filed and all the writ petitions were dismissed by order dated 23.06.2022. They filed writ appeals and the Division Bench of this Court allowed all the writ appeals by common judgment dated 13.07.2023.

8. As directed by the Hon'ble Division Bench of this Court, High Level Committee of Higher Education (H1) Department passed order dated 08.02.2024 thereby concluded that all the 2297 applications are found in violations of the guidelines of UGC and requested to restart



W.P.Nos.10211 of 2024, etc. batch

the CAS process afresh and also directed to recover monetary benefits extended to the persons as per CAS promotion. In fact, High Level Committee report was challenged before this Court in batch of writ petitions and this Court by common order dated 14.03.2024, directed the respondents to issue notice to the private individuals and to give opportunity of hearing and to conduct CAS process afresh by following the guidelines. If they found any irregularities in that private individuals selection process to their respective posts and found ineligible, they are directed to issue appropriate orders to recover the monetary benefits extended to them in accordance with law. As far as the petitioners are concerned, they were not issued any notice so far as per the High Level Committee Report dated 08.02.2024. That apart, it is relevant to extract the relevant portion of the order passed by the Hon'ble Division Bench of this Court in WA.No.1807 of 2022, etc. batch hereunder:

“18. Further, the issue relating to participation in the selection process and thereafter, being estopped from challenging the same will not arise in the present case for the reason that the applications made by the CAS aspirants will indicate that they have to be considered for different promotional posts depending upon their eligibility; they



W.P.Nos.10211 of 2024, etc. batch

had made more than one application, in cases, where, according to them, they were entitled for double promotion; and they did not make any undertaking that they are foregoing the next promotion by accepting one promotion offered to them. Therefore, the judgements relied upon by the respondent University in Rakesh Bakshi and another v. State of Jammu and Kashmir [Civil Appeal No. 235~236 of 2019 dated 22.01.2019], Ashok Kumar v. State of Bihar [2017 (4) Supreme Court Cases 357], Madras Institute of Development Studies and another v. K. Sivasubramaniyan and others, [(2016) 1 Supreme Court Cases 454], and Mukul Kumar Tyagi v. State of Uttar Pradesh and others [(2020) 4 Supreme Court Cases 86], do not deserve application to the present case. This is more so as the notification indicates that the applicant has to submit his or her application for simultaneous promotion to the post of Associate Professor as well as Professor under the CAS. As a matter of fact, on the basis of Clause 6.3.10 of the Regulations stating that candidates shall offer themselves for assessment of promotion, if they fulfil the minimum API scores indicated in the appropriate API system tables by submitting an application and the required PBAS proforma, the appellants had submitted separate simultaneous applications for promotion to the post of



WEB COPY



W.P.Nos.10211 of 2024, etc. batch

Associate Professor as well as to the post of Professor under the CAS. Therefore, the contention of the respondent University that since the appellants had participated in the process of evaluation for promotion under the career advancement scheme, they cannot now seek dual promotion, deserves to be rejected.

19. At this juncture, it is also pertinent to mention that unlike in the case of ordinary promotions, the issue of seniority is not interlinked to the promotions which are given to the faculty under the UGC career advancement scheme. As such, there would be no ensuing problem of seniority being either flouted or unsettled by granting of promotions to the teaching faculty on the basis of their eligibility under the UGC Regulations from a retrospective date from which they become eligible for the promotional post.

20. In view of the above analysis and reasoning, we hold that the appellants are entitled to dual/ double promotion as long as they fulfil the eligibility criteria as mentioned in the UGC Regulations, and they cannot be denied their right to be considered for promotion on account of the inaction or failure of the respondent University in conducting CAS promotions by constituting the Screening-cum-Evaluation Committee as required



W.P.Nos.10211 of 2024, etc. batch

under the Regulations. In other words, it is made clear that the appellants did not work as Associate Professor for the required number of years, shall not stand in the way of their being promoted to the post of Professor, if the promotion to be given to them for the post of Associate Professor relates back to the date from which their service being counted, would make them eligible for the post of Professor or the next level promotional post.

21. In the result, all these writ appeals stand allowed. Consequently, the orders impugned herein as well as in the writ petitions are set aside. The respondent University is directed to consider the claim of the appellants seeking further promotion to the post of Professor under the CAS and pass necessary orders, within a period of three months from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petitions are closed.

9. In view of the above, the petitioners are also entitled for the same relief as they are also standing on the same footing. Accordingly, the respondents are directed to place the petitioners as Professor with effect from the date of eligibility along with all attendant benefits



W.P.Nos.10211 of 2024, etc. batch

pursuant to the interview call letter within a period of twelve weeks from the date of receipt of copy of this order.

WEB COPY

10. With the above direction, all the writ petitions stand disposed of. There shall be no order as to costs.

08.07.2024

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
lok



WEB COPY



W.P.Nos.10211 of 2024, etc. batch

To

- 1.The Vice Chancellor,
Annamalai University,
Annamalai Nagar,
Chidambaram,
Cuddalore District 608 002
- 2.The Registrar,
Annamalai University,
Annamalai Nagar,
Chidambaram,
Cuddalore District 608 002



WEB COPY



W.P.Nos.10211 of 2024, etc. batch

G.K.ILANTHIRAIYAN, J.

lok

W.P.Nos.10211, 10214, 10216, 10219, 10223, 10236, 10239, 10241, 10243, 10244, 10255, 10259, 10261, 10265, 10268, 10354, 10357, 10359, 10362, 10365, 10391, 10393, 10392, 10394, 10397, 10395, 10398, 10399, 10400, 10402, 10401, 10404, 10405, 10407, 10937, 10938, 10941, 10945, 10946, 10950, 10952 & 16256 of 2024, 10960, 10958, 10963, 10964, 10966, 10968, 10974 of 2024 & 24952 of 2023

08.07.2024



WEB COPY



W.P.Nos.10211 of 2024, etc. batch