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W.A.No.997 of 2018 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : **26.09.2023**
Pronounced on : **08.03.2024**

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE K.KUMARESH BABU

**W.A.No.997 of 2018, W.P.Nos.11540, 27184,
27185, 28292, 33764 of 2013, 4574 to 4579 of 2015,
4581 to 4583 of 2015, 18697 of 2018, 14477 of 2019, 57 of 2022,
26942 of 2022 and Cont.P.Nos.20 and 134 of 2022
and connected miscellaneous petitions**

W.A.No.997 of 2018

1. M.Mani (Died)
2. Mrs.M.Senbagam
3. Mr.Rajesh
4. Ms.Padma Priya

... Appellants in
W.A.No.997 of 2018

Vs.

1. State of Tamil Nadu
Rep. by Secretary to Government,
Personal and Administration Department,
Fort St. George, Chennai – 9.
2. The Registrar
University of Madras,
Chennai – 5.



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3. T.Srinivasan
4. S.Elangovan
5. R.Sundararajan
6. G.Munikrishnan
7. M.Ganesan
8. J.Nadarajan
9. R.Nehrudas
10. H.Gokulakrishnan
11. A.Balamurugan
12. S.Arokianathan
13. A.G.Lakshmi Naryanan
14. Ahmed Hussain
15. M.Vijayakumar
16. K.Sivakumar
17. R.Shanmugam
18. E.Prabhakaran
19. C.Kothandapani
20. V.Koteeswaran
21. E.Umapathy
22. P.Sukumar
23. C.Mokeshraj
24. T.Kumar
25. K.Elumalai
26. K.Koteeswaran
27. S.Santhakumar
28. K.Parthasarathy

... Respondents in
W.A.No.997 of 2018

Appellant-1 Died, is substituted by the Appellants 2 to 4 as LR's of the deceased sole Appellant, vide order of Court, dated 26.09.2023 made in C.M.P.No.20467 of 2021 in W.A.No.997 of 2018 (RSKJ & KBJ)

R3 to R11 impleaded as Respondents vide court order dated 28.09.2018 made in C.M.P.No.11683 of 2018 in W.A.No.997 of 2018 (HGRJ & MKKSJ)

R12 to R28 impleaded as Respondents vide court order dated 28.09.2018 made in C.M.P.No.11825 of 2018 in W.A.No.997 of 2018 (HGRJ & MKKSJ)



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Prayer : Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order of dismissal dated 02.04.2018 made in W.P.No.7472 of 2018, thereby allow the W.P.No.7472 of 2018.

For Appellants : Mr.R.Singaravelan, Senior counsel
in W.A.No.997 of 2018 for Mr.C.K.Chandrasekar

For Respondents : Mr.K.V.Sajeev Kumar, Spl. G.P
in W.A.No.997 of 2018 assisted by Mr.R.Kumaravel for R1
Mr.S.Silambanan, AAG
assisted by Mr.A.S.Vijayaraghavan for R2
No Appearance for R3 to R28

COMMON JUDGMENT

R.SURESH KUMAR, J.

The core issue raised in this batch of cases since is one and same, with the consent of the learned counsel appearing for the parties, all these cases, i.e., writ appeal, writ petitions as well as contempt petitions were heard together and are disposed of by this common order.

2. Background facts :

2.1. That the respondent University of Madras (in short "The University" is a State University, has been functioning under the Madras University Act, 1923. The writ appellant in W.A.No.997 of 2018, M.Mani



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and others had initially entered into service as Assistant in the University, where the prescribed qualification was only SSLC (Fail). Those who had entered into service with that qualification, subsequently wanted to qualify themselves, therefore they have written entrance examination and after having passed out the entrance examination, they joined the University in UG Degree, i.e., B.A., course through Open University System and they become successful in the Degree. In addition to that, all of them have acquired the additional qualification of Typewriting in English. Since at the initial stage, they entered into service only with the qualification of 10th Standard fail, subsequently, some of them passed the 10th Standard in March 2014, some of them passed in March 2017 and some of them have not passed 10th Standard and thereafter some of them passed 12th Standard in 2016, 2018 etc., and some of them have not passed 12th Standard. Thereafter they cleared the further degree and some of them even become successful in PG Degree. All these qualification they acquired only through Open University System.



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2.2. From the post of Assistant, they had been further promoted as Assistant Section Officer, their further promotion was Section Officer, which promotion according to them was due. However such a promotions had not been given to them or they had not been considered for such a promotion to the post of Section Officer.

2.3. The reason being for such a non-consideration of promotion to the post of Section Officer, according to them that, their qualification which they acquired subsequent to the joining in the Service at University through Open University System is not inconsonance with the Government Order issued in this regard by the Government of Tamil Nadu in G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009, as the said Government Order has envisaged that, for the purpose of public employment in the State, where the UG degree of Post Graduation if are prescribed as a qualification, such a qualification must have been earned by those aspirants through the 10+2+3+2 pattern.



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2.4. That means, after completion of SSLC-10th standard, they should have pursued their +2 course, i.e., 11th and 12th on regular basis and thereafter only if they joined a UG Degree course through the Open University Scheme or Regular scheme and become successful in the UG Degree, such a UG Degree would be considered as a valid qualification. Like that, after completion of UG Degree under the method said above if they further pursued the PG qualification and if they become successful in such PG qualification either in Regular mode or Open University Scheme, such a PG qualification also can be considered as a valid qualification. Without this valid qualification of UG Degree or PG Degree as the case may be secured after having undergone the 10+2 pattern and PG Degree in Open University Scheme, without this 10+2+3 pattern, such a UG Degree or PG Degree cannot be considered as a qualification for appointment and promotion to the public employment in the State of Tamil Nadu. This was the sum and substance of G.O.Ms.No.107, which has been issued by the State Government on 18.08.2009.



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2.5. The Madras University by its Resolution of the Syndicate dated

28.12.2011 had adopted the said G.O to the following effect :

" Extract from the Minutes of the Meeting of the Syndicate held on 28th December 2011.

ACCOUNTS

596. [Sec.F.1A/Estt]

66. Considered the adoption of G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009, regarding the decision of the Government that the Diploma / Degree and Post Graduate Degrees obtained through Open University System only after having passed the SSLC (10th Std.) and Higher Secondary (+2) Examinations will be considered for appointments and promotions in Government Services.

RESOLVED that the said G.O be adopted in the University.

Sd/-

Section Officer (SG)
F-1 (SYNDICATE) SECTION
UNIVERSITY OF MADRAS."

2.6. Such adoption of G.O.Ms.No.107 made by the University through its Syndicate Resolution therefore would affect the prospects of the appellant and others who were waiting to get the promotion to the next



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cadre, i.e., Section Officer with the qualification of even Degree or Post Graduate Degree but without the 10+2 pattern. Therefore the said staff members / Officers working in the University joined together and filed the Writ Petition in W.P.No.3257 of 2012. The said writ petition was filed by M.Mani and 25 others.

2.7. When the said writ petition was pending consideration before this Court, on 02.07.2014, the Government issued another Government Order in G.O.Ms.No.65, Personnel and Administrative Reforms (S) Department. Under the said G.O., the General Rules in Part-II of the Tamil Nadu State and Subordinate Services Rules has underwent an amendment. By virtue of the amendment in Rule 19 in the explanation for Item-i, an amendment has been made, whereby it makes the following amended provision.

"AMENDMENT

In the said Rules -

In rule 19, in the Explanation, for item (i), the following item shall be substituted, namely : -

(i) In cases where the Special Rules prescribe a diploma or a degree or a post-graduate degree as a qualification for appointment, then -



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(a) a diploma obtained, after completion of S.S.L.C or Higher Secondary [10+3 (3 Years Diploma)] or [10+2+2 (Lateral Entry)].

b) a degree obtained after completion of S.S.L.C and Higher Secondary (10+2+3 or more).

(c) a post-graduate degree obtained, after completion of S.S.L.C, Higher Secondary and a degree (10+2+3+2 or 3)

from any University or institution, recognized by the University Grants Commission mentioned in Schedule II to this part shall be recognized as the qualification."

2.8. In fact the said amendment was made retrospectively from 18.08.2009, the date on which G.O.Ms.No.107 was issued. The University vide its Resolution dated 21.11.2014 has adopted the import of G.O.Ms.No.65, dated 02.07.2014. The relevant Resolution of the Syndicate of the University reads thus :

" 346 [Sec.F-I(A) Estt]

24. Considered the adoption of G.O.Ms.No.65,
Personnel and Administrative Reforms (s)

Department, dated 02.07.2014, towards



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amendment to the General Rules in Part-II of the Tamil Nadu State and Subordinate Services Rules (Volume 1 of the Tamil Nadu Services Manual 1987).

RESOLVED that the G.O.Ms.No.65, Personnel and Administrative Reforms (S) Department, dated 02.07.2014 be adopted in the University.

RESOLVED FURTHER that the Vice-Chancellor be authorized to create required number of supernumerary posts in the cadre of Section Officer and the same be vacated as and when vacancy arises in future.

RESOLVED ALSO that till the supernumerary post created as above is vacated, no promotion to the cadre of Section Officer be considered.

Sd/-.

The Registrar

UNIVERSITY OF MADRAS"

2.9. On the very same date, i.e., on 21.11.2014, the University has issued promotion orders by their Official Communication to all those petitioners in W.P.No.3257 of 2012. One sample order pertains to the first petitioner, namely M.Mani is extracted hereunder for easy reference.



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" OFFICIAL COMMUNICATION NO : F1 (A)/ESTT/
2014/842 DATED 21.11.2014

Sub : Estt – Notional Promotion as Section Officer – Orders
issued – Reg.

The G.O.Ms.No.65, Personnel and Administrative Reforms
(S) Department, dated 02.07.2014, has been adopted in the
University of Madras.

He is recruited for the post of Assistant prior to the adoption
G.O.(Ms.) No.107, Personnel & Administrative Reforms (M)
Department, dated 18.08.2009, i.e., 21.11.2014, and so far as
the promotion to the post of “Section Officer” is concerned,
the entry level post in the cadre is the “Assistant” post and
thereafter the next hierarchy of the post is the “Assistant
Section Officer” and he is eligible to be considered for
further promotion by virtue of seniority.

As he is already promoted to the Assistant Section Officer
and in the absence of any specific additional qualifications
prescribed for the post of Section Officer, where the criteria
for promotion is purely based on seniority, it has been
decided to award promotion to the cadre of Section Officer to
those who qualified degree through Open University System /
Distance Education System.



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Accordingly, Thiru M.MANI, Assistant Section Officer (SG) is promoted notionally as Section Officer in the Scale of Pay of Rs.15600 – 39100 with Grade Pay of Rs.5400/- w.e.f. the date of his eligibility, i.e., 10/12/2012, subject to the outcome of the Writ Petition No.3257/2012 filed by Thiru M.Mani and 25 others and he should work in the existing place and continue the same nature of work until he is posted in the regular vacancy.

He is informed that the monetary benefit on promotion as Section Officer will take effect from the date of assuming charge as Section Officer. He is directed to exercise option if any for fixation of pay within one month from the date of receipt of this communication.

Sd/-

REGISTRAR

To
Thiru M.MANI (Emp.No. 10194)
Assistant Section Officer (SG)
Department of Ancient History and Archaeology,
University of Madras.

Through : Proper Channel"

2.10. Similar promotion orders had been given to all other petitioners who had filed the said writ petition in W.P.No.3257 of 2012.



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WEB COPY 2.11. Thereafter when the said writ petition, i.e., W.P.No.3257 of 2012 came up for hearing on 10.12.2014, a copy of the said proceedings, dated 21.04.2014 extracted herein above has been placed before this Court on behalf of the University and stated that, the prayer sought for or the issue raised in the writ petition by those writ petitioners has been resolved. A learned Judge, who after having recorded the said proceedings, dated 21.11.2014 has dismissed the said writ petition as nothing survives for adjudication, by order dated 10.12.2014.

2.12. Therefore those persons who had been working as Assistant Section Officers with the qualification of either Degree or Post Graduate Degree, however without the 10+2+3 pattern had been considered for promotion to the post of Section Officer unmindful of G.O.Ms.No.107 and G.O.Ms.No.65 having been adopted by the University, accordingly, those incumbents had been working as Section Officer in the promoted post.

2.13. While that being so, the University had passed a Syndicate



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Resolution on 16.03.2018, where a panel of various officers of the University in the rank of Assistant Section Officer and Section Officer had been issued for promotion to the post of Section Officer and Assistant Registrar, where even though the group of Open University Degree holders were seniors in service they had not been considered. In other words, those who had the qualification as required by the University either UG Degree or PG Degree as the case may be secured through Open University System without having 10+2+3+2 pattern were omitted to be included in the panel prepared by the University fit for promotion for the post of Section Officer from Assistant Section Officer and Assistant Registrar from the Section Officer cadre by adopting the Resolution of the Syndicate dated 16.03.2018.

2.14. Therefore affected by such a Resolution, dated 16.03.2018, the Officers who were working in the University with the qualification obtained through Open University System (herein after called as OUS Group, for the sake of convenience), one among them namely, the said M.Mani, S/o.M.Muthiyalu, who stood as the first writ petitioner in the earlier round of litigation, had chosen to file the second round of litigation in filing Writ



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Petition in W.P.No.7472 of 2018, seeking for a writ of certiorarified mandamus calling for the records of Resolution dated 16.03.2018 of the Syndicate Meeting of the University, disqualifying the persons qualified through Open University System for promotion and to quash the same.

2.15. The said writ petition, i.e., W.P.No.7472 of 2018 came to be decided by a learned Judge of this Court, by order, dated 02.04.2018, where the learned Judge having taken note of the Judgments of the Hon'ble Supreme Court in Annamalai University's case, i.e., Annamalai University v. Secretary to Government, Information & Tourism Dept., reported in (2009) 4 SCC 590 and Orissa Lift Irrigation Corp. Ltd., v. Rabi Sankar Patro reported in 2017 SCC Online SC 1281, was pleased to dismiss the said writ petition. Aggrieved over the said order passed by the writ court, dated 02.04.2018, the said M.Mani filed Intra Court Appeal in W.A.No.997 of 2018. That is how the lone writ appeal in this batch of cases has come up.

2.16. Insofar as the writ petitions in this batch of cases are concerned, in the year 2013, some of the staff members / officers working in the



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University who claimed to have the necessary qualification as prescribed by the University by proper method, namely 10+2+3 pattern or 10+2+3+2 pattern (who are hereinafter be called as NOUS Group, i.e., Non Open University System Group for the sake of convenience) had filed separate writ petitions in W.P.No.11540, 27184, 27185, 28292 and 33764 of 2013. In all these writ petitions, the challenge was the promotion that was given to those belong to OUS Group.

2.17. Like that, the NOUS group also filed writ petitions in W.P.Nos.4574 to 4583 of 2015, except 4580 of 2015, opposing the promotion given to the OUS candidates as Section Officers in the year 2014.

2.18. Subsequently in the year 2018, already the University passed a Resolution, decided to approve the panel consisting of the persons for promotions with the qualification through proper 10+2+3 pattern alone and such resolution passed by the University in the year 2018 already been challenged in the writ petition which in fact has been dismissed, arising out



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of which only the writ appeal has been filed as stated supra.

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2.19. The very same pattern had been adopted by the University in the year 2019 also. Therefore the OUS group, i.e., the Open University System group had filed W.P.No.14477 of 2019 questioning the non-inclusion of them in the 2019 panel for Assistant Registrar.

2.20. W.P.No.18697 of 2018 also was filed by OUS Group challenging the Syndicate Resolution, dated 16.03.2018 disqualifying the OUS group candidates for promotion.

2.21. Like that W.P.No.26942 of 2022 also had been filed by OUS group challenging the University Resolution, dated 23.08.2022, where the particular petitioner's name was not included in panel fit for promotion for the post of Assistant Registrar though the petitioner subsequently qualified.

2.22. Like that, the OUS group also filed another writ petition in W.P.No.57 of 2022 challenging the University Syndicate proceedings, dated 23.12.2021 and the consequential promotion order given to others excluding



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the petitioners therein.

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2.23. Like wise, the OUS group also filed Contempt Petitions in Cont.P.No.20 of 2022 and Cont.P.No.134 of 2022 to punish the respondents for wilful disobedience of the order of this Court, dated 17.05.2019 made in W.M.P.No.14502 of 2019 in W.P.No.14477 of 2019 and order of this Court dated 04.01.2022 made in W.M.P.No.50 of 2022 in W.P.No.57 of 2022. This is how the batch of writ petitions filed at various point of time, i.e., from 2013 to 2022 had been grouped together and tagged along with the Writ Appeal came up for hearing before us.

3. In fact, this batch of cases came up before various Division Benches at various point of time for more than 30 times. For one reason or other, the cases have been adjourned time and again, lastly it has been posted before us and we have taken four hearings to hear the arguments advanced by the learned counsel appearing for the parties.

4. The submissions made by the learned counsel appearing for the parties :



4.1. On hearing of the parties on 28.08.2023 we have passed the following order :

" Heard the learned counsel appearing for both sides. Insofar as the stand of the University Grants Commission is concerned, the UGC has been directed to frame specific regulations with regard to the method of recruitment, educational qualification etc. for various posts in Universities which includes the post of Deputy Registrars as well as the Assistant Registrars.

2. Now the quarrel that has to be resolved in this batch of cases is, what shall be the educational qualification for those feeder categories for the purpose of promotion to the post of Assistant Registrars of the respondent University viz., University of Madras.

3. In this context, it is to be noted that, insofar as the post of Assistant Registrars is concerned, hitherto the procedure adopted by the University is to give promotions from the feeder category i.e. Section Officers for whom there has been no specific minimum educational qualification since has been prescribed, based on the seniority alone such kind of promotion is hitherto given.

4. Only in that context, with regard to the panel that was



adopted in the year 2013 and 2018 these petitioners who are aggrieved, because their names have not been included in the panel, these batch of writ petitions were filed.

5. In this context, it is further to be noted that, based on the Government of India directives as well as the University Grants Commission's regulations, the Government of Tamil Nadu issued G.O.Ms.No.56 Higher Education (H1) Department dated 25.02.2000, under which, the scales of pay for the post of Deputy Registrar and Assistant Registrar has been prescribed or the prescription has been adopted by the State Government which would apply to all the Universities including the respondent University.

6. In the said G.O.Ms.No.56 also the method of recruitment and it's qualification for the recruitment to the various posts including Assistant Registrar has been prescribed. However, the educational qualification that has been prescribed for appointment to the post of Assistant Registrar whether would be applicable for the promoted categories also is the question to be resolved.

7. In this context, it is further to be noted that, after the UGC regulation has been issued sometime in 1985 and 1998, the Government of India through their detailed



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letter dated 31st December 2008 has directed the University Grants Commission to frame Regulations with regard to the prescription of minimum qualifications for the appointment to the post of Assistant Registrar, Deputy Registrar etc. in various Universities throughout the country and in this context, the educational qualification and other method of recruitment by way of promotion to such post to the extent of either 25% or 50% of the vacancies in the respective categories have been specifically directed to be framed by way of Regulations.

8. Pursuant to the said letter of the Government of India dated 31.12.2008, the University sometime in 2011 had issued a Notification, where the University has stated the following:

“The University Grants Commission has constituted a Committee to frame Regulations on Minimum Qualifications, mode of recruitment/promotion, etc. for the posts of Registrar, Deputy Registrar. Assistant Registrar, Finance Officer, Deputy Finance Officer, Assistant Finance Officer, Controller of Examinations, Deputy Controller of Examinations and Assistant Controller of



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Examinations in the universities and the deemed to be universities fully funded by the Central Government, in pursuance of the Ministry of Human Resource Development letter No.1-32/2006-U.II/U.I(II) dated 31st December 2008. Suggestions specifically pertaining to the above subject matter alone are invited from the stakeholders concerned for consideration by the Committee. Suggestions may be addressed to the Secretary, UGC, and sent at the following e-mail addresses: akdogra@ugc.ac.in and kpsunny39@gmail.com latest by 5th July 2011.”

9. Therefore suggestions had been sought for from the stakeholders by the UGC, in order to frame such regulations as mandated by the Government of India through letter dated 31.12.2008.

10. In this context, whether any such regulations have been framed by the UGC or not has to be ascertained. In order to ascertain the same and report before this Court, Mr.P.R.Gopinathan, learned Standing Counsel appearing for the UGC seeks accommodation of atleast a week's time till 4th September 2023, within which, he would be able to get written instructions from the UGC as to whether any such regulations pursuant to the said



Notification inviting suggestions from the stakeholders has been framed and issued or published and if so the copy of such regulation also would be filed by him before this Court.

11. For the aforestated compliance and for continuation of arguments, post the matter on 4th September, 2023 as first case."

4.2. Again when the cases came up for hearing on 04.09.2023, after hearing the parties through the respective counsels, we passed the following order :

" Heard the learned counsel appearing for both sides.

2. In this batch of cases, there are 10 writ petitions in W.P.Nos.4574 to 4583 of 2015. In these writ petitions, the promotion given to the 23 private respondents as Section Officer by creating supernumerary posts by virtue of the order issued by the University dated 21.11.2014 is under challenge.

3. In this batch of cases, a learned Single Judge of this Court, by order dated 23.02.2015, passed the following order:



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"Notice returnable by 06.04.2015. There shall be an Interim Direction to respondents 1 to 3 to maintain status quo, with regard to appointment of respondents 4 to 27, in the mean time, meaning thereby no further action to regularise their services. Print the name of Mr.R.Vijayakumar, Spl.GP on behalf of respondents 1 to 3."

4. In this batch of cases, what is the stand of the University is not known because there has been no counter so far filed.

5. Though Mr.Silambanan, learned Additional Advocate General appearing for the respondent University orally submitted on instructions that, in this batch of 10 cases, the stand of the University is in supportive of the petitioners, we are not impressed with the same, because, even as per the Syndicate Resolution dated 21.11.2014 whether supernumerary posts have been created and in those supernumerary posts, whether those promotion has been given or not itself is not known as no such documents have been placed for our perusal so far by the University.

6. Therefore we direct the respondent University to file counter affidavit/status report sworn in by the Registrar of



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the University explaining the specific stand of the University with regard to the challenge that has been made in this batch of 10 writ petitions and also to indicate whether supernumerary posts pursuant to the Resolution have been created, if so, the relevant document to that effect also shall be filed before this Court.

7. For the aforesaid compliance, since the learned Additional Advocate General seeks accommodation till 13.09.2023, post the matter on 13.09.2023 as a first case."

4.3. Thereafter the hearing went on for some days.

4.4. The arguments advanced by the learned counsel appearing for the parties can be broadly divided into two group. The first group called the learned counsel supporting the case of the OUS Group, i.e., Open University System Group led by Mr.R.Singaravelan, Mr.Vijay Shankar and other counsels. On the other side, NOUS Group, Non Open University System Group was led by Mr.M.Ravi, Mr.N.Subramaniyan and other learned counsels. The Madras University was represented by Mr.S.Silambanan, learned Additional Advocate General assisted by



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Mr.A.S.Vijayaraghavan, learned standing counsel and the UGC was represented by Mr.P.R.Gopinathan and the State Government was represented by Mr.K.V.Sajeev Kumar, learned Special Government Pleader.

4.5. The learned counsel supporting the OUS Group have broadly made the following submissions :

4.5.1. The University Grants Commission, i.e., UGC on 25.11.1985 issued notification called Regulations, where in Regulation No.2, it has been made clear that, no student shall be eligible for admission to the first degree course through non formal / distance education unless he has successfully completed 12 years schooling through an examination conducted by the Board / University. In case, there is no previous academic record, he shall be eligible for admission if he or she passed an entrance test conducted by the University provided that, he / she is not below the age of 21 years on July one of the year of admission.

4.5.2. Citing this provision of the 1985 UGC Regulations, the counsel contended that, either they should have qualified by 10+2 pattern or if a previous academic record like the one of 10+2 is not available, such



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candidate if passed an entrance test conducted by the University and thereafter joined in UG Degree and thereafter PG Degree, those qualifications can be taken as valid qualification for all purposes.

4.5.3. They further contended that, insofar as the OUS candidates are concerned, at the time of entry into the service of the University, that all had the minimum qualification prescribed by the University which in fact was not a degree and they had been regularised and had been working for more than two decades and somebody nearly worked for three decades. In the meanwhile, they earned promotion to the post of Assistant, Assistant Section Officer and ultimately Section Officer and in between they also qualified with UG Degree and PG Degree. Some of them had passed 10th standard and some of them passed 10th and 12th standard, remaining have not passed 10th and 12th but uniformly all of them have written the entrance examination and after having passed through the said entrance exam only they joined the UG Degree course and successfully completed.

4.5.4. Therefore they contended that, as per the 1985 UGC Regulations, their qualification are valid qualification and therefore it



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cannot be stated that, by virtue of G.O.Ms.No.107 issued subsequently in the year 2009 these incumbents would not be eligible to get even a promotion in the organisation where they have already joined in service.

4.5.5. They would also submit that, G.O.Ms.No.107 or G.O.Ms.No.65 are subsequent developments and well prior to the issuance of these G.Os these incumbents since have joined in the University and at that time for the entry into service what was the qualification prescribed by the University since have been fulfilled they have entered into service. Thereafter if at all any promotion to be given, such a promotion according to the University Statutes or their prescription is only based on the seniority and not based on any additional qualification. The degree secured by them through Open University System cannot be stated to be an inferior qualification or invalid qualification and moreover even without such qualification since they can be given promotion by way of seniority, such an educational qualification cannot be brought in between that too by virtue of two Government Orders adopted by the University.

4.5.6. They would also submit that, if at all G.O.Ms.No.107 and



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G.O.Ms.No.65 was adopted by the University, that criteria can be fixed only for those who want to join into the University service as freshers, in other words, only at entry level if any such qualification is prescribed by the University for any post for outsiders against whom such kind of prescription can be adopted insisting upon the UG Degree and PG Degree as the case may be secured through the system of 10+2+3+2 pattern. Insofar as these existing incumbents are concerned, such kind of insistment cannot be made as their promotions solely depending upon the seniority they have earned for all these years by working in the University.

4.5.7. They also submitted that, the University Grants Commission on 23.02.2018 had issued a public notice, under which it has been reiterated by the UGC that, Open University Degrees secured by number of candidates should be treated as equivalent to the traditional university degrees. This prescription that has been made by the University Grants Commission cannot be overridden by the Madras University by merely adopting G.O.Ms.No.107 and G.O.Ms.No.65 issued by the State Government.



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4.5.8. They would also submit that, insofar as the prescription that has been made under G.O.Ms.No.107 is concerned, as has been adopted subsequently by way of amendment in the general rules by issuance of G.O.Ms.No.65, that prescription of requiring a UG or PG Degree as the qualification obtained through 10+2+3 pattern or 10+2+3+2 pattern is only meant for those who are seeking public employment in State services, i.e., State Government employment.

4.5.9. Here it is a University employment, which is an independent organisation created by an act of legislature and it is an autonomous institution, where there is a set of provisions of law available including the Statutes of the University, where whatever the qualification that has been fixed by the University for appointment to any post either by direct recruitment or by promotion, only such a qualification prescribed by the University alone has to be adopted.

4.5.10. Therefore in this context, the prescription made by the State Government for its employees cannot be even adopted to be employed or pressed into service against the existing incumbents of the University.



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Therefore such a method adopted by the University is totally unlawful and unjustifiable as it goes against the very provisions of the University Act as well as the Statutes made thereunder.

4.5.11. Therefore the learned counsel appearing for the OUS group have made submissions stating that the denial of promotions to the OUS group is bad in law. Therefore such a kind of resolutions adopted at various point of time from 2018 onwards by the respondent University may be interfered with and a consequential direction can be given to give promotions to these OUS group incumbents based on the qualification and experience gained by them to the respective promoted post like Section Officer, Assistant Registrar and Deputy Registrar as the case may be and accordingly, their prayer should be allowed they contended.

4.6. On the other hand, the learned counsel supporting the case of the NOUS Group, i.e., Non Open University System Group broadly have made the following submissions.

4.6.1. that the Government has issued G.O.Ms.No.107, dated 18.08.2009 which was adopted by the University through its Syndicate



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Resolution, dated 28.12.2011. Thereafter, G.O.Ms.No.65 was issued by the State Government on 02.07.2014, which was also adopted by the University through its Syndicate Resolution on 21.11.2014. By making such an adoption on 21.11.2014 of G.O.Ms.No.65, the amendment since has been made in the relevant rules, date backs to G.O.Ms.No.107, dated 18.08.2009. Therefore after 18.08.2009, no promotion can be given to any incumbents who did not have the requisite qualification secured through proper system of 10+2+3 pattern as envisaged and reiterated in the Government Order in G.O.Ms.No.107.

4.6.2. Therefore the learned counsel submitted that, all these promotions earned by them, i.e., OUS group was subsequent to 18.08.2009 especially in the year 2014, i.e., on 21.11.2014 a set of promotion to the post of Section Officer since had been given, such a promotions is bad in law and goes against the very prescription that has been made by the State Government adopted by the University. Therefore all those promotions should be set aside and those people have to be reverted back.



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4.6.3. The learned counsel would further submit that, insofar as the validity of G.O.Ms.No.107 is concerned, its validity has been upheld by a Division Bench of this Court in T.L.Muthukumar's case, i.e., T.L.Muthukumar v. Registrar General and another, dated 10.02.2011 in W.P.No.18729 of 2010. The said position has been followed and reiterated in number of decisions by various Division Benches of this Court where at various point of time the prescription of or adoption of the prescription in G.O.Ms.No.107 insisting upon the required qualification secured after adopting the system of 10+2+3 having been questioned in those cases the various Division Benches of this Court have taken a consistent view that, once the Government issued G.O.Ms.No.107 and it has been made amendment by issuance of G.O.Ms.No.65 and the validity of the G.O.Ms.No.107 having been questioned was upheld, the said system cannot be diluted.

4.6.4. Therefore, if at all any qualification that has been prescribed as UG Degree or PG Degree as the case may be, for appointment and promotion to the public employment, such a qualification must have been secured only by adopting the method of 10+2+3 pattern and in violation of



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such system, if any OUS degree has been secured by any one, such a degree can only be treated as a qualification for any other purposes and not for public employment.

4.6.5. Therefore such a consistent view since have been taken in number of cases, where the learned counsel have given citations, they contended that, the University of Madras since have adopted G.O.Ms.No.107 as well as G.O.Ms.No.65 as early as on 28.12.2011 and 21.04.2014 with retrospective effect from 18.08.2009, for all these promotions, where the qualification since has been prescribed as UG Degree or PG Degree, such promotion can only be given to those who secured such UG Degree or PG Degree under regular scheme of 10+2+3 pattern and not to those who have secured such degrees through Open University System without having 10+2+3 pattern.

4.6.6. In this context, the learned counsel have relied upon various Judgments of the Division Benches of this Court as well as Annamalai University v. Secretary to Government, Information & Tourism Dept., reported in (2009) 4 SCC 590



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4.6.7. Hence the learned counsel supporting the NOUS Group have contended that, the promotions given to OUS Group in the year 2014 and if any such promotions given subsequently all to be cancelled and those people have to be reverted and the decision taken by the University in the year 2018, 2019, 2020 or 2022 by adopting various resolutions approving the panel fit for promotion to the post of Section Officer, Assistant Registrar and Deputy Registrar excluding the names of the OUS Group and included only the NOUS group of candidates are proper decisions taken by the University, therefore those decisions of the University are to be upheld and the challenge made by the OUS group against the those decision taken by the University are liable to be dismissed and therefore those cases are to be dismissed, they contended.

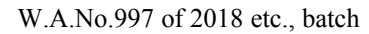
5. We have given our anxious consideration to the said detailed rival submissions made by the learned respective counsel appearing for both sides and have perused the materials placed before this Court.



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6. Since the main contesting respondent is the University and who is the employer, against whom only these litigations have been filed both by the OUS as well as NOUS Group, the stand of the University in fact sought for by this Court. Mr.S.Silambanan, learned Additional Advocate General appearing for the University had referred to Sections 15, 16 and 19 of the University Act as well as Chapter 24 of the Statutes. He also referred to the resolution passed by the University, dated 07.02.1997 and creation of supernumerary post of Section Officers, dated 21.11.2014. He has also submitted that, between 1992 and 1994, promotions were given in violation of the University norms. He also submitted that, because of creation of supernumerary post in 2014, i.e., after adoption of G.O.Ms.No.107 and G.O.Ms.No.65, whether such a creation of supernumerary post and promotion given to such supernumerary post for those who sought for promotion as Section Officers was correct or not in fact was referred to the Government seeking for their instructions.

7. These are all the sum and substances of the submissions made by the learned Additional Advocate General on behalf of the University.



9. In this context, if we refer to the University Act, 1923, Section 19 speaks about the powers of the Syndicate, where Section 19(g) empowers the Syndicate to appoint the University Professors and Readers and the Teachers and servants of the University, to fix their emoluments if any, define their duties and the conditions of their service and provide for the filling up of the temporary vacancies. Therefore the complete power is vest with the University Syndicate who alone has to fix the qualifications of various teaching and non-teaching staff members of the University for appointment and promotion and based on such a qualification fixed by the University alone, such kind of appointment either by direct recruitment or



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promotion by transfer could be made by the University.

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10. Under the University Act, Statutes, Ordinance and Regulations can be made by the University. Chapter 7 of the Statutes and the Ordinance of the University speaks about the qualification of the Registrar under Clause 11(a), where it fixes the Master Degree with atleast 55% marks or its qualification Grade of B in the UGC seven point scale.

11. Like that, prescription has been made with regard to the qualification of Controller of Examinations, where also again a Master Degree with at least 55% marks has been prescribed as a qualification.

12. A post called Senior Deputy Registrar also is available with the University, which can also be appointed by the Syndicate. However, there has been no separate qualification shown for the post of Senior Deputy Registrar.



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13. In Clause 12(b), the post of Deputy Registrar has been provided, where also it has been made that, the Syndicate is the competent authority to appoint a Deputy Registrar and no qualification has been prescribed.

14. Clause 13 of the Statutes speaks about Assistant Registrars, where also the Syndicate was the competent authority, however, the qualification for appointment to the post of Assistant Registrars also has not been mentioned therein.

15. Therefore, the University Statutes has not expressly prescribed any qualification as to how selection and appointment to be made to these kind of posts like Assistant Registrar, Deputy Registrar and Senior Deputy Registrar.

16. It is the stand of the University that, the post of Assistant Section Officer and Section Officer are the post by way of promotion to be filled up. The feeder category respectively would be Assistant for Assistant Section Officer, Assistant Section Officer for Section Officer.



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17. The University already adopted the Resolution to prescribe the qualification of a Degree as a qualification for the post of Section Officer. If that being so, what kind of degree can be accepted for such a promotion even to be given to the post of Section Officer is a very relevant question pertaining to the issue raised in this batch of cases.

18. In this context, as we stated above, the University has already adopted the G.O.Ms.No.107, dated 18.08.2009 on 28.12.2011, followed by G.O.Ms.No.65, dated 02.07.2014 which was adopted on 21.11.2014. The G.O.Ms.No.65 is nothing but making an amendment pursuant to G.O.Ms.No.107 in the relevant rules of the State Government, i.e., the Tamil Nadu State and Subordinate Service Rules, whereby after Rule 19, the explanation clause has been inserted, under which, the qualification of degree has been explained as if secured by adopting the method of 10+2+3 pattern. This adoption of G.O.Ms.No.65 by the University on 21.11.2014 dates back to 18.08.2009, the date on which, G.O.Ms.No.107 was issued. The reason being that, in G.O.Ms.No.65 itself has been issued retrospectively amending the Rule with effect from 18.08.2009. Therefore



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once the G.O.Ms.No.65 is adopted by the University even though on 21.11.2014, it would be effected from the date of issuance of G.O.Ms.No.107, i.e., 18.08.2009.

19. However on 21.11.2014 itself, the day on which the University passed Resolution adopting G.O.Ms.No.65, the University has issued proceedings to various OUS Group people for giving promotion to the post of Section Officers. The order, dated 21.11.2014 by way of official communication issued to various people giving promotion to the post of Section Officers has already been extracted herein above, where the University has stated that, such incumbent since has been promoted to the post of Assistant Section Officer already and in the absence of any specific additional qualification prescribed for the post of Section Officer, where the criteria for promotion is purely based on seniority, it has been decided to award promotion to the cadre of Section Officer to those who qualified degree through Open University System / Distance Education System. Therefore it was the stand taken by the University on 21.11.2014 that, the additional qualification since has not been prescribed for holding the post of Section Officer and such a promotion to the post of Section Officer is purely



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based on seniority, those who qualified degree through Open University System / Distance Education System can be promoted, accordingly such a promotion has been given.

20. In this context, the University has not come forward to explain the minimum or basic or essential educational qualification to hold the post of Section Officer. If it is a degree which is such an essential qualification to hold the post of Section Officer and those who secured such degree would be considered for promotion to the post of Section Officer on the basis of the seniority, absolutely there can be no quarrel to the stand taken by the University in giving such promotion.

21. However, if the degree being the qualification and with that qualification only even promotion can be given based on seniority whether that degree would be by a regular degree secured by 10+2+3 pattern or otherwise under Open University System is the question.

22. In this context, in fact W.P.No.3257 of 2012 filed by 25 people as stated supra, when was pending before this Court, the University by official



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communication, dated 07.12.2012 has sent the following communications to those incumbents individually. The extract of the said communication reads

thus :

" OFFICIAL COMMUNICATION NO. F1 (A) /
ESTT/2012/3470, DATED 7 DEC 2012

Sub : Estt - Implementation of G.O.Ms.No.107 P&
AR (M) Dept. dated 18.08.2009 - Intimated - Reg.

* * * * *

He /She is informed that the Government of Tamil Nadu vide its G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009 has ordered that the Diploma / Degree and Post Graduate Degrees obtained through Open University System only after having passed the SSLC (10th Std.) and Higher Secondary (+2) Examinations will be considered for appointment / promotions in Government Services."

The Syndicate at its meeting held on 28th December 2011 has adopted the above Government Order.

Since, he / she has obtained degree through Open University without passing the SSLC (10th Std.) and Higher Secondary (+2) Examinations, his / her



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candidature for promotion to the Section Officer has not been considered at present. His / Her promotion will be considered as per the direction of the High Court verdict in W.P.No.3257 filed by Thiru M.Mani and others.

This is for his / her information.

Sd/-

REGISTRAR i/c."

23. In the said communication, the University has made it very clear that, the Government issued G.O.Ms.No.107 under which 10+2+3 pattern should be adopted and the Syndicate at its meeting held on 28.12.2011 has adopted the said Government Order and the incumbent has obtained degree through Open University System without passing the SSLC, 10th standard and the Higher Secondary +2 examination, hence his candidature for promotion to the Section Officer has not been considered at present, it will be considered by the direction of the High Court through its verdict in W.P.No.3257 of 2012 filed by Mani and others.

24. If this is the stand of the University on 07.12.2012 what made the



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University to take a different stand in 2014, i.e., on 21.11.2014, where after adopting G.O.Ms.No.65, the University has come forward to take a different stand by thus promotion had been given to all those people despite the fact that, they all have admittedly secured the UG degree qualification by Open University System.

25. There has been no verdict passed by this Court in the pending writ petition in W.P.No.3257 of 2012 and in fact W.P.No.3257 of 2012 was disposed by the writ court, where the University on 21.11.2014 since had decided to give promotion to those people and only recording the said decision taken by the University in giving promotion to these OUS Group people, the said writ petition was dismissed as infructuous.

26. Therefore the deviation that has been taken by the University between 07.12.2012 and 21.11.2014 is without any basis or reason as the same has never been explained by University.

27. Be that as it may, it is the stand of the OUS candidates as



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projected by the learned counsel appearing for them, that the University Grants Commission time and again has directed all the Universities to recognise the degrees awarded through Open University System. In this context, they firstly relied upon Clause 2 of the 1985 Regulations, dated 25.11.1985 and the Notification issued by the Central Government, dated 01.03.1995. The said Notification issued by the Government of India, dated 01.03.1995 reads thus:

"NOTIFICATION (44)

On the recommendation of the Board of Assessment for Educational Qualifications, the Government of India has decided that all the qualifications awarded through Distance Education by the Universities established by an Act of Parliament or State Legislature. Institutions Deemed to be Universities under Section 3 of the UGC Act, 1956 and Institutions of National Importance declared under an Act of Parliament stand automatically recognised for the purpose of employment to posts and services under the Central Government, provided it has been approved by Distance Education Council, Indira Gandhi National Open University, K, 76, Hauz



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Khas, New Delhi - 110 016 and wherever necessary by All India Council for Technical Education, I.G.Sports Complex, I.P.Estate, New Delhi - 110 002."

28. They also relied upon a notification issued by the University Grants Commission, dated 05.05.2004, where *inter alia* the UGC has stated the following :

" May, I therefore request you to treat the Degrees / Diploma / Certificates awarded by the Open University in conformity with the UGC notification on Specification of Degrees as equivalent to the corresponding awards of the traditional Universities in the country."

29. They referred a further notification issued by UGC, dated 14.10.2013 where *inter alia* the UGC has directed the Universities to the following effect :

"4. The Government of India, in exercise of its power conferred under Section 20(1) of UGC Act 1956, issued directions dated 29th December 2012 entrusting UGC with the responsibility of



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regulating higher education programme in open and distance learning (ODL) mode. Consequently, Universities / Institutions desirous of offering any programme through distance mode would require recognition of UGC.

5. As you are aware, the Government of India has envisaged a greater role for the Open and the Distance Education System. The envisioned role may be fulfilled by recognizing and treating the Degrees / Diplomas / Certificates awarded through distance mode at par with the degrees obtained through the formal system of education. Open and Distance Education System in the country is contributing a lot in expansion of Higher Education and for achieving target of GER, without compromising on quality. Non recognition / non equivalence of degrees of ODL institutions for the purpose of promotion / employment and pursuing higher education may prove a deterrent to many learners and will ultimately defeat the purpose of Open and Distance Education.

6. Accordingly, the Degrees / Diplomas / Certificates awarded for programmes conducted by



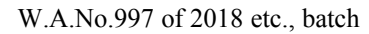
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the ODL institutions, recognised by DEC (erstwhile) and UGC, in conformity with UGC Notification on specification of Degrees should be treated as equivalent to the corresponding awards of the Degree / Diploma / Certificate of the traditional Universities / institutions in the country."

30. These communications as well as Clause 2 of the 1985 Regulations of UGC have been heavily relied upon by the learned counsel appearing for OUS group and submissions were made that, in view of the definite stand taken by the UGC, the degrees awarded by the Open Universities either after 10+2 pattern or after writing the entrance examination as envisaged in Clause 2 of 1985 Regulations shall be recognised as a Degrees obtained by them on par with the regular UG and PG Degrees awarded by the regular stream of education by various Universities. Therefore, there could be no difference between the degrees obtained through the regular system of education as well as Open University System as per the UGC Regulations as well as the directives time and again issued by the University Grants Commission of course in pursuance to the



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32. In alternatively, the learned counsel appearing for the OUS Group would also submit that, it is the very consistent stand taken by the University at various point of time especially whenever audit objections has been raised with regard to the promotion given to those OUS Group people and the fixation of higher pay to the promoted post are concerned, justifying



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the promotions given to them stating that promotions were given only based on seniority and not based on any special or additional qualifications.

Therefore such a promotions awarded to various people by the University at various point of time based on the seniority is justifiable and therefore the fixation of higher pay in the promoted post for those people can also be justified. In support of this contention, in fact the reply given by the University for various years to the audit objection also had been filed before this Court and those documents have been heavily relied upon by these counsel, in support of the contention that it has never been the stand of the University at any point of time that, such promotions can be operated only based on the additional or fresh educational qualification and not merely based on the seniority. Instead, the promotions have been operated only based on seniority and therefore the qualification is only an additional thing. Hence such a qualification whether has been secured by regular stream of education or Open University System is immaterial to be considered for the purpose of promotion, they contended.

33. These submissions made by the learned counsels appearing for



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the OUS Group is concerned, whether legally these submissions are valid or not is a yet another question which has to be answered.

34. In this context, the earliest Judgment of the Division Bench with regard to the validity of G.O.Ms.No.107, dated 18.08.2009 is **T.L.Muthukumar v. The Registrar General, High Court of Madras and another**, reported in (2011) 2 MLJ 785.

35. In the said writ petition, the prayer was to quash the G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009 issued by the State Government. A Division Bench who decided the said case has raised the question for its consideration that, whether a candidate who obtained B.A., B.Sc., B.Com., degree without successfully completing 12 years schooling can be a ground for promotion to the Higher post on the basis of having qualification of graduation degree that too through correspondence course. In fact the Division Bench has considered Clause 2 of UGC Regulations and taken note of the Judgment



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rendered by the Supreme Court in Annamalai University's case cited supra.

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36. What has been held ultimately by the Division Bench is in paragraph 14, which reads thus :

"14. From a perusal of Clause 2 of the 1985 Regulations and the ratio decided by the Supreme Court as quoted herein before, it is manifest that for the purpose of obtaining a Post Graduate Degree a candidate has to satisfy and comply the mandatory requirements provided therein. According to the rule, no candidate shall be eligible for award of first degree unless he has successfully completed 12 years schooling. Similarly, no student shall be eligible to seek admission to the Masters course in any faculty, who has not successfully pursued the first degree course of three years duration."

37. Since the case was related to the rule framed by the High Court *inter alia* prescribing the qualification, whether it was inconsonance with the said prescription of 10+2+3 pattern or not was also answered by the



Division Bench in paragraph 18 of the said Judgment which reads thus :

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" 18. As discussed above, the rule framed by the High Court inter alia clearly lays down the qualification for the purpose of promotion from Categories 7, 8 and 9 to Category 6. It is clearly mentioned that for the purpose of promotion, a person must possess and hold the B.A./B.Sc./B.Com or other Bachelors degree of the Madras University or of a recognised University. The rule does not recognize B.A., or B.B.A., degree from an Open University obtained by a candidate without having the basic +2 qualification. The condition contained in the High Court Service Rules, therefore, cannot in any way be superseded by other law not applicable to the employees of the High Court."

38. The said Judgment has become final. Therefore the earliest decision of a Division Bench of this Court questioning the validity of G.O.Ms.No.107 since has been answered in favour of the State in issuance of the G.O.Ms.No.107, the said decision has been followed in number of cases.



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WEB COPY 39. In this context, the learned counsel supporting the cause of OUS

Group has relied upon a Division Bench decision subsequently been made on 10.08.2017 in W.P.(MD).No.11111 of 2016 in the matter of M.Rathinavel v. Registrar General and another. In the said Division Bench Judgment, in fact a slight opposite view has been taken by the subsequent Division Bench and ultimately decided the case in favour of the employees.

40. In fact the said Judgment in Rathinavel's case has been placed recently before a subsequent Division Bench, where one of us (RSKJ) is a party in the matter of S.Rajkumar v. State of Tamil Nadu. The said Division Bench in S.Rajkumar's case has considered the decision of both T.L.Muthukumar's case as well as M.Rathinavel's case. The said Division Bench has considered both the cases and has held as follows :

"10. Therefore, now the question is whether the validity of G.O.Ms.No.107 has been upheld in the other Division Bench judgment dated 10.02.2011 in W.P.No.18729 of 2010 in the matter of T.L.Muthukumar and four others -vs The



Registrar General, High Court of Madras and another.

11. Insofar as T.L.Muthukumar's case judgment cited supra is concerned, the prayer sought for therein is for a writ of certiorarified mandamus calling for the records in G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department dated 18.08.2009 on the file of the second respondent therein and quash the same and direct the first respondent therein to consider the petitioners therein for promotion to the post of Assistant, A.S.O., etc., and also on the basis of the educational qualification obtained by the petitioners therein.

12. When this issue was dealt with, the Division Bench has exhaustively considered all these aspects and discussed about the validity of G.O.Ms.No.107. In fact, the G.O.Ms.No.107 verbatim has been recorded or extracted by the Division Bench in the said judgment in T.L.Muthukumar's case.

13. The Division Bench has also given reasons that, insofar as the qualification of U.G.degree prescribed under the High Court Service Rules,



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which has been framed under Article 229 of the Constitution is concerned, that U.G.degree is nothing but an U.G.degree properly secured or obtained. The U.G.degree which has been shown as qualification in the Service Rules is nothing but an U.G.degree completed in 10+2+3 system.

14. This is the sum and substance of the view that has been expressed by the Division Bench in T.L.Muthukumar's case, where the very validity of the very same Government Order ie., G.O.Ms.No.107 was put under challenge.

15. If at all G.O.Ms.No.107 is not valid and the Division Bench has considered that G.O.Ms.No.107 does not make any dent on the service rules that has been framed under Article 229 of the Constitution of India, the Division Bench judgment would have been in a different way.

16. The Division Bench has confined itself to the challenge that has been made in the said writ petition in T.L.Muthukumar's case ie., the validity of G.O.Ms.No.107 vis-a-vis the Service Rules of Madras High Court and accordingly has enunciated the principle that the qualification that



has been prescribed under the Service Rules of the Madras High Court ie., U.G.degree is nothing but an U.G.degree regularly obtained. U.G.degree regularly obtained means through proper education system of 10+2+3, not otherwise.

17. Therefore, it has been made clear in the said judgment of T.L.Muthukumar's case that, there is no infirmity in the prescription that has been made by the Government through G.O.Ms.No.107. When that being so, the approach of the learned Judge in following the said judgment of the Division Bench in T.L.Muthukumar's case cannot be found fault with or it cannot be stated to be an erroneous approach.

18. Once the Division Bench already upheld the validity of G.O.Ms.No.107, of course in comparison with the relevant service rules, the subsequent Benches or single Judges necessarily have to follow the said judgment as there has been no further appeal against the said judgment in T.L.Muthukumar's case it seems. In other words, there has been no judgment by the Hon'ble Apex Court as against the view expressed by the Division Bench in T.L.Muthukumar's case.



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19. However, after six years when a similar issue had come up for consideration before another Division Bench of this Court, it seems that in M.Rathinavel's case dated 10.08.2017, in a different way interpretation has been given by the Division Bench with regard to the degree qualification being prescribed under various service rules.

20. In that case also, the petitioner was an employee of the High Court, whose promotion since has been cancelled on the ground that the degree qualification of U.G.degree obtained by him is not a proper U.G.degree, as he admittedly obtained the degree from Open University, without following 10+2+3 system and therefore that degree cannot be recognized as a degree for the purpose of promotion if strictly implemented the prescription that has been made under G.O.Ms.No.107. The Division Bench has gone to the extent of saying that any degree awarded by various other universities recognized by the University Grants Commission (UGC) can also be considered as valid degree and therefore, if a person is having a valid degree awarded by any



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other University recognized by the UGC, that degree can also be considered as equivalent degree awarded by the Madras University. Therefore, the petitioner therein fulfills the qualification prescribed under the service rules and hence he is eligible to hold the promoted post and thereby, the order passed against him was found be bad. That was the view expressed by the another Division Bench in M.Rathinavel's case in W.P.(MD) No.11111 of 2016 dated 10.08.2017.

21. The Division Bench, in M.Rathinavel's case, though has referred the ratio laid down in the judgment of the Hon'ble Supreme Court in 2009 (4) SCC 590 (Annamalai University -vs- Secretary to Government), it has opined that the said judgment has not been correctly followed by the State Government and therefore the Division Bench was of the opinion that, notwithstanding the orders passed by the State Government not to recognize the Bachelor's degree awarded by the Open Universities as equivalent to a Bachelor's degree awarded by the Madras University and such holders of Bachelor's degree are not eligible for employment under it, it is clearly an



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impermissible exercise.

22. In this regard, with respect, we would like to point out that the Division Bench in T.L.Muthukumar's case has dealt with the matter in detail and upheld the validity of G.O.Ms.No.107 by giving interpretation to the qualification of U.G.degree prescribed for certain posts for promotion in the High Court Service Rules as early as on 10.02.2011, but the said judgment dated 10.02.2011 in T.L.Muthukumar's case has not been referred in M.Rathinavel's case by the subsequent Division Bench after six years. Normally, judicial discipline requires that if a decision on the same subject has already been rendered by a Division Bench, that will be taken care of and if the Co-equal Division Bench agrees with the view already taken by the Coordinate Bench, they can agree with the same and in case they disagree with the decision taken, normally the matter would be referred to a larger Bench.

23. Here, no such exercise has been done and no such attempt has been made by the subsequent Division Bench in M.Rathinavel's case. Moreover, in the Division Bench judgment in



M.Rathinavel's case, it has been held that the degree awarded by Madras University means any equivalent degree awarded by any other university can also be construed as an equivalent qualification, and held that the University from which the petitioner M.Rathinavel obtained the degree is also a recognized university and therefore the degree awarded by that University is also a recognized degree.

24. We have absolutely no quarrel on this proposition with regard to the recognized degree. Recognized degree means valid degree. However, the degree obtained from Open University without following 10+2+3 system, whether to be accepted as qualification for the purpose of appointment and promotion in the public employment insofar as the State of Tamil Nadu is concerned, was the question which arose in the wake of G.O.Ms.No.107 which has been upheld by the Division Bench in T.L.Muthukumar's case.

25. No doubt, there was an U.G.degree obtained by the said M.Rathinavel (petitioner in W.P(MD) No.11111 of 2016) from Open University, without following the system of 10+2+3. That degree may



be a valid degree, but that cannot be taken as qualification for the purpose of appointment and promotion in the public employment in Tamil Nadu including High Court Service. This has been already clarified and made clear by the earlier Division Bench judgment in T.L.Muthukumar's case on 10.02.2011 on the very same High Court Service Rules framed under Article 229 of the Constitution. When that being so, when a different view wanted to be taken by another Division Bench, they must have considered the earlier judgment and if at all the earlier judgment is not agreeable with the subsequent Division Bench, the subsequent Division Bench should have referred the matter to the Full Bench. Otherwise, the issue should have been declared as per incuriam.

26. Here in the present case, the judgment rendered in M.Rathinavel's case, in our considered opinion, is per incuriam because, the declaration that has been made by the Division Bench in M.Rathinavel's case about the validity or equivalence of the degree obtained by any person from any other University recognized by the UGC is concerned, we need not have any quarrel.



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However, whatever degree obtained from any university recognized by the UGC, whether is a degree obtained after following the system of 10+2+3 system is the question. If anyone secures any degree from any recognized University, no doubt it may be a degree for other purposes, but for the purpose of public employment in the State of Tamil Nadu, the degree must be a degree obtained after following the system of 10+2+3. If that system has not been followed, it is not a degree or qualification to be recognized for the purpose of either for appointment or promotion in public employment in the State of Tamil Nadu. When that being so, the crux of the issue has not been considered and decided by the Division Bench in M.Rathinavel's case by judgment dated 10.08.2017, which in fact has already been decided in T.L.Muthukumar's case by judgment dated 10.02.2011.

27. Therefore, we have no hesitation to hold that the judgment made in M.Rathinavel's case is only per incuriam especially in the context of the declaration already made by the Division Bench in T.L.Muthukumar's case by the judgment dated



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10.02.2011. 28. Insofar as the argument that has been made by the learned counsel for the appellant that, by virtue of G.O.Ms.No.107 several service regulations framed under Article 309 since were sought to be amended, that kind of amendment is impermissible by mere issuing of an executive order under Article 162 of the Constitution, we are not impressed with the said argument, the reason being that, the import of G.O.Ms.No.107 is nothing but a declaration that the qualification prescribed under various service rules for appointment and promotion in public employment in the State of Tamil Nadu especially in the context of U.G.degree is concerned, that U.G.degree must be a valid degree obtained through the system of 10+2+3. Therefore, by virtue of G.O.Ms.No.107, Personnel and Administrative Reforms Department dated 18.08.2009, the State of Tamil Nadu did not make any amendment to the service rules. If the amendment is to be made to the service rules, that has to be made only through proper procedure. Here, the service rules has not been sought to be amended and the prescription of U.G.degree is



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always there. Therefore, we have no hesitation to hold that no amendment has been sought for in the High Court Service Rules and it has not been touched upon or tinkered with by issuance of G.O.Ms.No.107, and therefore this argument made by the learned counsel for the appellant is liable to be rejected. Accordingly, it is rejected.

29. For all these reasons and the discussion made herein above, we are of the considered view that the judgment of the Division Bench made in W.P.No.18729 of 2010 dated 10.02.2011 in the matter of "T.L.Muthukumar and four others -vs- The Registrar General, High Court of Madras and another" is holding the field and the judgment of the Division Bench made in W.P.(MD) No.11111 of 2016 dated 10.08.2017 in the matter of "M.Rathinavel -vs- The Registrar General, Madras High Court and another" insofar as the present context and subject matter is concerned it is held per incuriam. Therefore, the view taken by the learned Judge in the impugned order dated 01.08.2012 in W.P.No.20395 of 2012 following the Division Bench Judgment in T.L.Muthukumar's case dated 10.02.2011 is a right



approach. Therefore, that kind of approach cannot be found fault with. Hence, the order made by the writ court impugned in the present writ appeal is to be sustained. Accordingly, it is sustained. Resultantly, the appeal fails and hence it is dismissed. No costs."

41. The very basis for all these decisions is the decision made by the Hon'ble Supreme Court in Annamalai University's case cited supra.

42. Insofar as the qualifications of these OUS Group candidates are concerned, at the time of entry into service they entered into service with 10th standard fail, subsequently some of them in the year 1994, 1995, 1997 and some of them in 1989 have passed the B.A., Degree through Open University System. None of them have undergone the regular stream of 10+2+3 pattern admittedly. When that being so, whether such a degrees obtained by them could be considered as a valid qualification for the purpose of promotion and appointment in the University at various higher posts like Section Officer, Assistant Registrar or Deputy Registrar in the University service is another question.



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WEB COPY 43. In this context, the University even though adopted the Government Order in G.O.Ms.No.107, dated 18.08.2009, by Resolution, dated 28.12.2011 and the position of the University though has been conveyed by the communication, dated 07.12.2012 to all such OUS candidates and subsequently, the University also has adopted the G.O.Ms.No.65 by their Resolution, dated 21.11.2014, why such a deviated stand had been taken suddenly even before any decision come from court in the pending litigation, i.e., W.P.No.3257 of 2012 has not been explained.

44. As we have seen already, what is the exact qualification to be adopted for the appointment to the post of Section Officer, Assistant Registrar and Deputy Registrar had not been mentioned in the University Statutes, except to say that, for the post of Registrar, it requires a PG qualification with 55% marks. Therefore these qualifications since have been prescribed by way of passing Resolution by the Syndicate as the Syndicate is the sole authority for appointment of teaching and non-teaching staff of the University, where the University has adopted that, the degree



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shall be the qualification to hold such posts, whether such a degree secured by the candidates through Open University System also can be adopted or accepted by the University is yet another question.

45. In order to answer the said question, the counsel who argued on behalf of OUS group have mainly relied upon Clause 2 of the 1985 UGC Regulations and various communications issued by the UGC and Central Government to recognise the Open University Degrees issued to various candidates on par with the regular degrees. It is to be taken note of the fact that, the Government has come forward to issue G.O.Ms.No.107, dated 18.08.2009, which *inter alia* has stated the following:

"4. இப்பரிந்துரையினை அரசு கவனமாகப் பரிசீலித்து இணைக்கல்வி நிர்ணய பரிசீலிப்புக் குழுவின் பரிந்துரையினை ஏற்றுக்கொள்ள முடிவெடுத்து அதற்கிணங்க, பள்ளி இறுதித்தேர்வு (பத்தாம் வகுப்பு) மற்றும் பள்ளி மேல்நிலைக் கல்வி தேர்வு (+2) ஆகியவைகளில் தேர்ச்சி பெற்றப்பின், திறந்தவெளிப் பல்கலைக்கழகங்களின்



வழியாகப் பெறப்படும் பட்டயம் / பட்டம் /
முதுகலைப் பட்டங்களை மட்டும்
பொதுப்பணிகளில் நியமனம் / பதவி உயர்வு
பெற அங்கீகரித்து ஆணையிடுகிறது."

46. Assuming that this qualification has been prescribed by the State Government under G.O.Ms.No.107, by virtue of that, they issued subsequent G.O.Ms.No.65, dated 02.07.2014 making amendment to the General Rule Part-II of the Tamil Nadu State and Subordinate Service Rules, whereby in Rule 19 in the explanation, a new clause has been inserted under which a Diploma obtained after completion of SSLC or higher secondary 10+3 pattern or 10+2+2 pattern lateral entry, a degree obtained after completion of SSLC and higher secondary 10+2+3 pattern and a Post Graduation Degree obtained after completion of SSLC, Higher Secondary and UG Degree has been prescribed. Therefore whether it may be a Diploma or a UG Degree or a PG Degree how it should be secured by adopting the 10+2+3 pattern has been made in the Rule itself of the State.



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47. However merely because the State has issued the G.O., and they made amendment to the State Service Rules which *mutatis mutandis* whether can be made applicable to the services of the University is the question.

48. The answer would be that, the University has adopted the import of G.O.Ms.No.107 by their Resolutions, dated 28.12.2011, subsequently the G.O.Ms.No.65, dated 02.07.2014 also has been adopted by the University by their Resolution, dated 21.11.2014, of course retrospectively from the date of issuance of G.O.Ms.No.107, i.e., 18.08.2009.

49. Therefore strictly speaking after 18.08.2009 if at all any appointment or promotion to be made in the respondent University, where if the degree is the qualification, such degree must have been secured by adopting 10+2+3 pattern and if it is a post graduate degree, such a degree must have been acquired by adopting the 10+2+3+2 pattern is the criteria.



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50. Since the said criteria has been adopted by the University, whether the University can deviate the same was the question raised by the NOUS candidates.

51. In this context, it is to be noted that, the validity of G.O.Ms.No.107 has been upheld which has been reiterated by various Division Bench Judgments. The contrary Judgment made by one Division Bench in M.Rathinavel's case has been declared to be *per incuriam*, as various Division Benches have taken a consistent stand, of course in consonance with the law declared in the Annamalai University's case cited *supra*. Therefore the issuance of G.O.Ms.No.107 by the State Government and adoption of the G.O. by the University cannot be questioned as it has already been concluded.

52. Insofar as the power of the Syndicate of the University is concerned, under Section 19, the power and functions of the University since has been enumerated, where clause (g) makes it very clear that, the Syndicate is the authority to make appointment of teaching and non-



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teaching staff including the servants of the University.

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53. Therefore what shall be the qualification to be prescribed and by what mode appointment shall be given to various positions of the University and even if any position to be filled up by way of promotion what shall be the criteria to be adopted by the University, all can be decided by the University Syndicate.

54. Therefore the periodical adoption of the Government Orders like G.O.Ms.No.107 and G.O.Ms.No.65 or any other criteria fixed by the Government from time to time by the University through its Syndicate Resolution can only be construed as the action on the part of the University within the domain of its Act and the Statutes.

55. However once such an action has been taken by the University in adopting such procedure or the qualification or prescription made by the Government at various point of time by issuance of Government Orders, whether University can deviate such a prescription, if it is to be answered, we have no hesitation to hold that, the University has no power to deviate such adopted procedure by University Syndicate Resolutions.



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56. This in fact has been reiterated by the University earlier in their communication, dated 07.12.2012 but that has been deviated in the subsequent communication in the year 2014 and had given promotions to various people to the post of Section Officer knowing well that they did not have the qualification of degree secured through 10+2+3 pattern.

57. Even though justification has been given by the University stating that, these people had been given earlier promotion well prior to the adoption of G.O.Ms.No.107 or G.O.Ms.No.65 and there has been no further qualification prescribed for the post of Section Officer, therefore such a promotion can be given by adopting the seniority of these incumbents and therefore such a promotion had been given, such a justification cannot be approved by this Court in view of the legal position as has been discussed herein above.

58. But the fact remains that, such promotions had been given and in the promoted post, the pay has been fixed and initially though it has been stated as a creation of supernumerary post or on temporary basis such



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promotions had been given, subsequently, those incumbents had been permitted to work on regular or permanent basis and many of them on superannuation have retired from services, the very first petitioner, who is the appellant in W.A.No.997 of 2018, namely Mani is no more, therefore the legal heirs of him have been brought on record.

59. Therefore it seems that, only few of them who got such a promotion from OUS Group still could be serving before attaining the superannuation. Only those candidates had filed the separate writ petitions challenging the Act of the University in passing Resolutions in 2018, 2019 and 2022 preparing the panel fit for promotion to various posts like Section Officer, Assistant Registrar and Deputy Registrar, where the OUS Group candidates have been completely excluded and only those who are having the qualification of UG or the PG as the case may be secured through the 10+2+3 pattern alone were included.

60. This action on the part of the University in strictly following the legal position after adoption of G.O.Ms.No.107 and G.O.Ms.No.65 by



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properly preparing the panel excluding the OUS Group candidates and included only the NOUS candidates based on the seniority of course after evaluating the qualification whether has been secured through 10+2+3 pattern, cannot be found fault with. Therefore the challenge that has been made in those writ petitions filed by OUS Group candidates challenging the panel preparation of the University at various point of time since 2018 have to necessarily fail. Therefore those writ petitions making such a challenge filed by OUS Group candidates are liable to be rejected.

61. If the same principle is adopted, the decision rendered by the learned Judge in rejecting the writ petition in W.P.No.7472 of 2018 by order, dated 02.04.2018 which is impugned in W.A.No.997 of 2018 also is to be justified and to be approved.

62. As a result, the W.A.No.997 of 2018 also necessarily has to fail and therefore that is also liable to be dismissed.

63. At this juncture, we would like to point out that, the OUS candidates have heavily relied upon yet another Division Bench Judgment



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reported in (2010) 2 LW 746 in the matter of K.Sakthirani v. The Secretary of the Bar Council of Tamil Nadu and others, where the question was those who completed the law degree against the Rules of Legal Education, 2008 whether can be treated as a candidate who are having the valid degree for the purpose of enrolling themselves in the Bar Councils to become lawyer, was the main question posed before the Division Bench.

64. The Division Bench ultimately concluded in paragraph 92 of the said Judgment, where, the Rules of Legal Education, 2008 framed in this regard was held to be constitutionally valid and also the action of the Bar Council of India to insist that a person having a degree from the Open University under the Indra Gandhi National Open University Act, 1985, cannot be allowed to join in a law course in a Law University recognised by it and the Bar Council of Tamil Nadu and Bar Council of India can also refuse to enrol such a person who joins the law course and complete the same was also to be justified as it has been declared to be well within the rights of the Bar Council.

65. Though it has been held so by the Division Bench, ultimately the Division Bench has also held that, the petitioners therein were entitled to



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succeed on the principle of promissory estoppel, acquiescence, legitimate expectation and equity. Where the Division Bench held so that, the writ petition challenging the order of cancellation of enrolment by the Bar Council of Tamil Nadu were allowed and the impugned orders therein was set aside and the Bar Council of Tamil Nadu was directed to issue enrolment certificate to the petitioners as in the case of other candidates.

66. It has also been held that, the respective writ petition was to be allowed challenging the order of the Bar Council of India to the extend that, the said resolution cannot be made applicable to the writ petitioners in view of the fact that, they have already completed the law degree.

67. This Judgment in fact mainly has been issued by the Division Bench giving the relief to those who challenge the decision of the Bar Council, on the basis of equity only.

68. If the same principle is adopted here, even the promotion that has been issued to the OUS Group candidates in the year 2014 well after the adoption of G.O.Ms.No.107 and G.O.Ms.No.65 by the University can be



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ratified on the ground of equity. Also the stand of the University to give such a promotions based on the mere seniority of those incumbents unmindful of fulfilling the prescribed qualification secured by adopting the method of 10+2+3 pattern can be rectified by the University only on the ground of equity.

69. Moreover most of the OUS Group candidates who earned such promotion in the year 2014 would have retired by this time on superannuation. Though this litigations have been filed seeking for further promotion, in view of the legal position as well as the rule position which we have discussed herein before, they are not entitled for any further promotion in view of the fact that, the University once has adopted the method under which a degree to be secured as a qualification to hold a post of the University as per the Syndicate Resolution, such a post cannot be filled up by way of even promotion without fulfilling such a qualification secured through 10+2+3 pattern, therefore no such further promotion could be earned by these people of OUS Group. Therefore to that extent, their plea raised in this batch of cases are to be rejected.



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70. However, the promotion earned by them and the pay fixed to them and the salary and other perquisites received by them hitherto or till superannuation and the pensionary benefits if any calculated based on the last drawn pay for those superannuated candidates after earning such promotion need not be disturbed on the ground of equity.

71. But at the same time, insofar as the challenge that has been made by NOUS candidates challenging such promotion earned by the OUS candidates in the year 2014 etc., though such a challenge is capable of being succeeded, in view of the aforestated stand taken by us not to disturb the promotions given to them and the perquisites paid to them, those writ petitions filed by the NOUS candidates challenging the promotion so far earned by OUS candidates can be disposed of without allowing their prayer as that will run contra to the stand we have taken herein above.

72. In the result, this batch of cases are disposed of with the following orders :



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(i) Accordingly, the W.A.No.997 of 2018 and the writ petitions in

W.P.No.18697 of 2018, W.P.No.14477 of 2019 and W.P.No.57 of 2022 filed by OUS Group candidates seeking for promotion or challenging the panel prepared by the University excluding their candidature of OUS candidates are hereby dismissed.

(ii) The other writ petitions filed by the NOUS Group candidates in W.P.No.11540 of 2013, W.P.No.27184 of 2013, W.P.No.27185 of 2013, W.P.No.28292 of 2013, W.P.No.33764 of 2013, W.P.Nos.4574 to 4579 of 2015 and W.P.Nos.4581 to 4583 of 2015 are also disposed in view of the observations we have made where the promotions earned by the OUS Group candidates so far was directed not be disturbed.

(iii) As a sequel, the OUS Group candidates though not entitled for any further promotion either functionally or notionally, their promotions already earned either in the year 2014 or in any other year, such promotions shall not be disturbed and whatever the benefits accrued on them or earned by them by virtue of such promotions also neither be disturbed nor be



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recovered.

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(iv) Insofar as W.P.No.26942 of 2022 is concerned, it is the claim of the writ petitioner that, subsequently, he has earned the qualification by adopting the method of 10+2+3 pattern, i.e., passed 10th standard, 12th standard and then Degree, the claim made by the said petitioner in W.P.No.26942 of 2022 shall be considered by the University in accordance with the settled legal position as has been discussed herein above by adopting the method of 10+2+3 pattern or 10+2+3+2 pattern as the case may be for any such posts, for which such petitioner is otherwise entitled to based on the seniority. However, such promotion if any to be given to the petitioner, that shall be considered only prospectively from the date he has acquired such qualification one by one by adopting the 10+2+3 pattern and not before the date of acquiring such qualification. Therefore to that extent, the candidature of the said petitioner alone shall be considered by the University for necessary promotion.

(v) In view of the detailed orders passed in the Writ Appeal and Writ



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Petitions, no further persuasive action is required in the Contempt Petitions.

Accordingly, the Contempt Petitions in Cont.P.Nos.20 and 134 of 2022 are closed.

73. Before parting with the case, we want to reiterate what has been stated by a Division Bench of this Court in the matter of J.Gopikrishna v. The Teachers Recruitment Board in W.A.No.99 of 2020, dated 30.11.2023, where one of us (RSKJ) is a party.

74. In the said case also the very same issue had come with regard to the qualification prescribed under G.O.Ms.No.107 and the case of M.Rathinavel also had been brought before the Division Bench. T.L.Muthukumar's case has been taken into account and the earlier decision of the same Division bench in S.Rajkumar's case also has been considered. After having considered the same, the said Division Bench though ultimately dismissed the said Writ Appeal, however has made the following observations :

"28. Before parting with the case, we feel that it is a vexed issue, where Universities are established by the law made by the State Legislature as well as



parliament and Exclusively Open Universities are established by legislation. Those open Universities are intended to impart education for those who did not have the regular pattern of 10+2+3 system. In those Universities also, degrees are offered to various eligible candidates and degrees are also awarded by such Universities.

29. If these kind of qualifications are awarded by the State Universities created by the Act of Parliament or Act of State Legislature become a qualification which would not be accepted by the employer especially the State authorities for employment in their respective domain, then certainly it would be a pathetic situation insofar as those candidates are concerned. Therefore, the stake-holders of both Central and State authorities can have a re-look in this matter in the larger interest of the Society. Unless and until such an exercise is undertaken by the concerned authorities / stake-holders, what is the law that is prevailing alone shall be taken into account by this Court. Therefore, in view of the said legal position, we are not inclined to accept the plea raised by the



appellant, therefore, it is liable to be rejected, accordingly, it is rejected. Hence, the writ appeal is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed."

75. Therefore this Division Bench also like to reiterate the aforesaid observations made by the said Division Bench as the Government of India as well as University Grants Commission time and again at various point of time had issued communications, notifications, instructions, directions to various Universities to treat the qualification acquired through Open University Scheme on par with the qualification secured by the candidates through regular system of education by adopting the 10+2+3 pattern or 10+2+3+2 pattern.

76. In this context, the UGC itself can come forward to frame a full fledged Regulations as to how the qualification acquired by thousands or lakhs of people through Open University System throughout the country from various Open Universities created by either the Legislature of the



W.A.No.997 of 2018 etc., batch

Parliament or the State Legislatures should to be treated. If such an exhaustive Regulations with statutory force are framed by the UGC, it can be adopted by all Stakeholders so that this kind of conflicting stand taken by various employers like the State Governments, Public Sector Undertakings, Statutory Universities can be avoided.

77. It is a settled principle of law that, insofar the qualification for appointment to any post, the ultimate decision making authority to prescribe the same is the employer. If the employer has prescribed a qualification for any post to be filled up by such an employer, that cannot be normally questioned.

78. Here in the case in hand, though the University of Madras being the employer has not prescribed any such qualification adopting the 10+2+3 pattern, since it has adopted the prescription made by the State Government through the Government Orders referred to above, it has also become the qualification or prescription of the University, therefore that cannot be questioned by any job seeker including the existing incumbents of the University seeking promotion.



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79. Therefore in future, in order to avoid this conflict, as the qualification of UG Degree or PG Degree or any other qualification awarded by the State Universities through Open University System cannot be undermined like this by declaring those degrees as invalid degree for the purpose of employment when it comes to the public employment of the State Governments, Central Government, Public Sector Undertakings, Statutory Universities etc., suitable endeavour is made by the Stakeholders including the UGC.

80. Therefore this anomaly should be immediately addressed by the Stakeholders, where the main role to be played is by the University Grants Commission, who is the Nodal Agency created by an Act of Parliament with exorbitant power and jurisdiction. Therefore we except that, the UGC shall come forward immediately to address this issue as it has become a National issue now.

81. With all these observations, we dispose all these cases in this batch, i.e., Writ Appeal, Writ Petitions and Contempt Petitions to the terms as indicated above. However, there shall be no order as to costs.



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Consequently, connected miscellaneous petitions are closed.

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(R.S.K., J.) (K.B., J.)
08.03.2024

Index : Yes
Speaking Order : Yes
Neutral Citation : Yes
tsvn
To

1. The Secretary to Government
State of Tamil Nadu
Personal and Administration Department,
Fort St. George, Chennai – 9.
2. The Registrar
University of Madras,
Chennai – 5.



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W.A.No.997 of 2018 etc., batch

**R.SURESH KUMAR, J.
and
K.KUMARESH BABU, J.**

tsvn

**Common Judgment in
W.A.No.997 of 2018, W.P.Nos.11540,
27184, 27185, 28292, 33764 of 2013,
4574 to 4579 of 2015,
4581 to 4583 of 2015,
18697 of 2018, 14477 of 2019,
57 of 2022, 26942 of 2022 and
Cont.P.Nos.20 and 134 of 2022
and connected miscellaneous petitions**

08.03.2024