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W.P.No.12756 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

CORAM:

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

W.P.No.12756 of 2023
and W.M.P.Nos.12548, 12549, 12550, 12551, 12552 of 2023

Dr.V.Rajendran

... Petitioner

-Vs-

1. The Registrar,
Bharathiar University,
Coimbatore – 641 046.

2. The State of Tamilnadu,
Rep. by its Secretary,
Department of Higher Education,
Secretariat, Fort, St., George,
Chennai-600 009.

3. University Grant Commission, (UGC),
Bahadur Shah Zafar Marg,
New Delhi-110 002.

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the Statutes of the Bharathiar University in Appendix I to Statutes Volume II insofar as and to the extent that it includes 'Assistant Librarian' in the category of Non-Teaching Staff, and the consequential proceedings of the 1st respondent in No.E7/CAS-Past Service/2021/18709-8-8 dated 24.08.2021 and to quash the same as being illegal and ultravires the UGC



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Regulations on Minimum qualifications for appointment of Teachers and other Academic Staff in Universities and Colleges and measures for the maintenance of standards in Higher Education, 2010 & 2018 and for a consequential direction to the 1st respondent university to consider and grant promotion to the petitioner under UGC Career Advancement Scheme (CAS) as applicable to teaching and academic staff.

For Petitioner : Mrs.Kavitha Rameshwar

ORDER

This writ petition has been filed challenging the proceedings issued by the 1st respondent dated 24.08.2021, thereby revised the pay scale and refix the same and also ordered to recover the excess payment from the petitioner.

2. The petitioner has been appointed as Library Assistant in the first respondent university on 29.03.1993. While the petitioner was in service, he applied for the post of Assistant Librarian and accordingly he was appointed as an Assistant Librarian through proceedings dated 06.01.2006 in the first respondent university. Thereafter, he was re-designated as Assistant Professor in Department of Library and Information Science with effect from 10.06.2015. In the meanwhile, the first respondent passed an order dated 08.05.2018 withdrew the petitioner's re-designation order and placed the petitioner as Assistant



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Librarian, Aringnar Anna Central Library w.e.f. 10.06.2015. The first respondent passed an order dated 08.05.2018 withdrawing the petitioner's re-designation order without any notice and placed the petitioner as Assistant Librarian, Arignar Anna Central Library w.e.f. 10.06.2015. The first respondent university appointed regular College Librarian at Modakkuruchi, Erode and temporary Assistant Librarian at Gudalure Bharathiar University Constituent College in the year 2009 and 2017 respectively, they are being treated as teaching faculty and have also been sanctioned with advanced increments. All College Librarians/Assistant Librarians working in various Universities/Colleges in the state and nation, both regular and temporary are also treated as teaching faculty and are permitted to attend orientation/Refresher Course in Library and Information Science. The first respondent University is also treating other University Assistant Librarians as well as affiliated college Librarians as teaching staff and permission is being granted to act as research supervisor in the discipline of Library and Information Science.

3. The petitioner submit his detailed representation dated 11.05.2018 to the first respondent stating that as per the UGC regulations, Assistant Librarians are teaching staff and they are eligible for promotion



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based on the UGC Regulations. Further, as per G.O.No.1789 dated 05.12.1988, Assistant Librarians have been equated to and placed on par with teaching staff and it has been provided that all the benefits provided to teaching staff shall be provided to Assistant Librarian, the same was approved by the first respondent syndicate vide resolution dated 11.02.1989 vide item No.33, However, the first respondent has not considered the petitioner's representation till date.

4. The Career Advancement Scheme (CAS) applicable to the faculty members and Librarians of the first respondent university issued by University Grants Commission (UGC) and All India Council of Technical Education (AICTE) completion of orientation and refresher courses are also mandatory apart from the number of years of experience in the previous post, for promotion to the next post.

5. As per the CAS norms, past services has to be eligible for counting. It is also to be counted for the purpose of promotion under CAS. The AICTE (All India Council For Technical Education) had issued a public notice dated 05.08.2021 wherein it has been stated as follows:



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"All India Council for technical Education vide Sl.No.11 of AICTE Gazette Notification dated 20.05.2020 had clarified that there shall be no relaxation in the mandatory requirement of total duration of programmes for promotion under CAS for faculty members/Librarians/PTIs in Degree/Diploma level institutions. It was also clarified that one-time extension for completion of these programmes had already been given until 07.11.2015.

The University Grant Commission vide its Public Notice 2-16/2002(PS)/Pt.F.1.II dated 16.10.2018 had extended the date of participation/completion in orientation/refresher courses/short term training programmes/continuing education programmes for promotion under CAS up to 31.12.2018 with respect to 6th CPC. In view of the same, the council too has decided to extend the date of completing Orientation/Refresher Courses/Short-term Training Programmes/Continuing Education Programmes, for promotion under CAS for faculty member/Librarians/PTIs in Degree/Diploma level institutions upto 31.12.2018 for all the candidates to ensure uniformity"

6. The requirement for orientation and refresher course for promotion due under the CAS shall not be mandatory upto 31.12.2018. However, the said impugned letter of the 1st respondent dated 24.08.2021 has been challenged in this writ petition.



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

8. The learned counsel appearing for the petitioner relied upon the order passed this Court in ***W.P.No.20558 of 2018*** dated 15.06.2022 in the case of ***Dr.A.Balamurugan Vs. The Barathiar University***, as follows:-

“15. Now the controversy is in a very narrow compass, and the issue to be decided is as to whether the petitioner is entitled to get promotion to the post of Assistant Professor Stage-II with effect from 07.03.2013 or from 14.06.2014.

16. The only hurdle for the petitioner to get such promotion from 07.03.2013 instead of 14.06.2014 is that, the petitioner completed the refresher course only on 13.06.2016, which was one of the essential qualification as per the 2010 Regulations.

17. However, the 2018 UGC Regulations made it clear that till 31.12.2018 the requirement of orientation and refresher course shall not be treated as mandatory one, and thereby that can be dispensed with. Therefore, based on the requirement of refresher course or orientation course the promotion need not be delayed to any incumbent like the petitioner in view of the 2018 UGC Regulations, which has in fact been adopted by the State Government in G.O.Ms.No.5 dated 11.01.2021. Therefore, the benefit of the UGC



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Regulations 2018 followed by the Rule of the State Government, which adopted the 2018 Regulations can very well be extended to the petitioner. If that being so, the petitioner would be entitled to hold the post of Assistant Professor Stage II with effect from 07.03.2013 instead of 14.06.2014. Therefore, this Court feels that the impugned order can be interfered with to that extent.

18. In the result, the following orders are passed in this writ petition.

** That the impugned order giving promotion to the petitioner to the post of Assistant Professor Stage II to the extent 'with effect from 14.06.2014' is hereby set aside.*

** As a sequel, there shall be a direction to the respondent University to confer such promotion to the petitioner ie., Assistant Professor Stage II with effect from 07.03.2013 and accordingly the consequential service benefits also can be conferred on the petitioner.*

** The needful as indicated above shall be undertaken by the respondent University within a period of eight weeks from the date of receipt of a copy of this order.”*

Thus, it is clear that till 31.12.2018, the requirement of orientation and refresher course shall not be treated as mandatory one and it can be dispensed with.

9. Further the Hon'ble Division Bench of this Court in the



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judgment dated **20.10.2023** passed in ***W.A.No.224 of 2023 etc.***, batch in the case of ***Dr.R.Prabhakaran Vs. The Registrar, Bharathiar University and ors.***, held that even if the State government is a body that funds the university, the State government cannot under the guise of auditing the accounts of the university, interfere with the internal administration of the university, which power of the university includes the power to make appointments as well as further promotions. Therefore, the third respondent completely ignored the factual ground as well as the circumstances in which the petitioner claims to be appointed as Assistant Professors in the respondent university under the UGC plan and more importantly, that it was beyond their power as well as jurisdiction under the Tamil Nadu Local Fund Audit Act, 2014 as well as under the Bharathiar University Act, 1981, to have raised objections with regard to the validity of the appointments made under the UGC XI Plan. Further the UGC regulations of the year 2018 have also been adopted by the Government in G.O.Ms.No.5, Higher Education Department, dated 11.01.2021, wherein it has be reiterated the requirement of orientation and refresher course for promotion due under the CAS shall not be mandatory upto 31.12.2018. Hence, the impugned proceedings shall not be sustained and liable to be quashed.



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Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
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G.K.ILANTHIRAIYAN. J.

gvn

To

1. The Registrar,
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2. The State of Tamilnadu,
Rep. by its Secretary,
Department of Higher Education,
Secretariat, Fort, St., George,
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