



W.P.No.11395 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2024

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.P.No.11395 of 2020

and

W.M.P. Nos. 13908 and 13909 of 2020

V.Gomathi

... Petitioner

Vs.

1. The Vice Chancellor,
The Tamil Nadu Dr. M.G.R. Medical University,
Chennai – 32.

2. The Registrar,
The Tamil Nadu Dr. M.G.R. Medical University,
Chennai – 32.

3. The Government of Tamil Nadu,
Rep. by Secretary to Higher Education,
Fort St.George, Chennai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for records of the second respondent dated 02.04.2018 in Memo.Rc.No.El(2)/02132/2018 and quash the same.



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For Petitioner : Mr. N.A.Nissar Ahmed

For Respondents : Mr. A.Mohammed Gouse (for R1 & R2)
Mr. M.Muthusamy,
Government Advocate (for R3)

ORDER

The instant Writ Petition has been filed challenging the impugned order dated 02.04.2018, passed by the second respondent.

2. It is the submission of the learned counsel for the petitioner that the second respondent has issued a recovery notice based upon G.O. Ms. No. 56, Higher Education (H1) Department, dated 25.02.2000. The learned counsel for the petitioner would further submit that the petitioner was promoted to the post of Assistant Registrar on 01.10.2011. According to the petitioner, the G.O. Ms. No. 56, Higher Education (H1) Department, dated 25.02.2000, prescribes certain qualifications for direct recruitment to the post of Assistant Registrar, but not for the Assistant Registrar of Dr. M.G.R. Medical University. However, erroneously relying on the above Government Order, the instant recovery notice has been filed, hence, the same is liable to be quashed.



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3. The learned counsel for the first and second respondents fairly conceded that the said G.O. Ms. No. 56, Higher Education (H1) Department, dated 25.02.2000, which is the basis for the issuance of the impugned recovery notice, is not applicable to the present petitioner. However, the recovery order was issued on the ground that the petitioner did not have the required qualification. Therefore, prayed to confirm the notice.

4. I have given my anxious consideration to the submissions made on either side.

5. Before proceeding further, this Court deems it appropriate to extract paragraph 5 of the counter statement of the second respondent, so as to understand the stand taken by them.

6. It is relevant to extract the paragraph No.5 of the second respondent's counter statement, which reads as follows:-

“ I further state that by Resolution No. 37 of the 294 Governing Council Meeting held on 13.12.2022, the following has been resolved on the applicability of G.O. Ms. No. 56, Higher Education (H1) Department, dated



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25.02.2000, in line with the clarifications received from the Department of Health and Family Welfare, vide. Lrs. No. 511/MCA2/2019-7 dated 10.07.2021, 511/MCA2/2019-11 dated 24.06.2022 and 3316432/MCA-2/2022-1 dated 21.11.2022, reiterates that after having an exhaustive examination of the issue in consultation with Finance, Human Resources Management, Higher Education and Law Departments, has clarified that the G.O. Ms. No. 56 Higher Education (H1) Department, dated 25.02.2000 was not applicable to the Tamil Nadu Dr. MGR Medical University and therefore has requested the University to take appropriate decision in this matter in the light of the prayers under Statute 28 of the service Statutes of the Establishment of the Tamil Nadu Dr.M.G.R. Medical University, Chennai and to solve the issues, if any pending accordingly. It is therefore resolved that the applicability of G.O. Ms. No. 56 Higher Education (H1) Department, dated 25.02.2000 has been relaxed as one time measure with the following conditions:

“1. To enable settlement of the retirement/pensionary benefits to retire Assistant Registrars.

2. To promote those who are already in the existing cadre of AR/Section Officers to the vacant



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posts of Deputy Registrar/Administrative Officer and Assistant Registrar as per existing Service Statutes. The procedure for the same is to be completed and placed in the next Governing Council.

3. All future promotions to the cadre of DR/AR/AO shall be in conformity with the above GO. Necessary steps be taken to amend the Service Statutes of the University”.

As resolved, the Selection Officers and Assistant Registrars, who were already in the existing cadre as on 13.12.2022, are eligible for promotion to the posts of Assistant Registrar and Deputy Registrar/Administrative Officer respectively, as and when the vacancy arises in the concerned posts, by following the existing provisions of qualification and experience as prescribed in the Service Statutes.”

From the above counter statement, it is amply clear that the G.O. Ms. No. 56, Higher Education (H1) Department, dated 25.02.2000, is not applicable to the petitioner.

7. Furthermore, if we closely read the said Government Order, the same had prescribed certain qualifications only for direct recruitment,



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whereas the petitioner herein is a promotee. Hence, there is force in the submission of the learned counsel for the petitioner. In this background, the impugned order is liable to be interfered with.

8. In view of the above reasons, the impugned order dated 02.04.2018, passed by the second respondent, is hereby quashed. Accordingly, the instant Writ Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

28.10.2024

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Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No

To

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C.KUMARAPPAN, J.

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