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W.P.Nos.16498, 16499, 16501 to 16504,
16506 to 16509, 16511, 16513 & 16515 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.16498, 16499, 16501 to 16504,
16506 to 16509, 16511, 16513 & 16515 of 2024
and

W.M.P.Nos.18076, 18079, 18080, 18081, 18083, 18084,
18086, 18087, 18089, 18091, 18093, 18100 & 18103 of 2024

W.P.No.16498 of 2024:

V.David Arputha Raj

.. Petitioner

Vs.

1.State of Tamilnadu,
Rep. by its Principal Secretary to Government,
Higher Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.

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

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

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue Writ of Certiorarified Mandamus, to call for the records



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of the 2nd respondent in his proceedings Ref No.E7/W.A.No.504 of 2023/Dr.V.David Arputha Raja/2024 dated 10.05.2024 and to quash the same as being illegal and unsustainable in law and for a consequential direction to the 2nd respondent to regularize / absorb the services of the petitioner from the date of his initial appointment in the post of Assistant Professor, Department of English and Foreign Languages under UGC XII Plan.

For petitioner	:	Ms.N.Kavitha Rameshwar
For R1	:	Mr.K.Surendran Additional Government Pleader
For R2	:	Mr.K.J.Parthasarathy Standing Counsel
For R3	:	Mrs.V.Sudha Standing Counsel

COMMON ORDER

These writ petitions have been filed challenging the proceedings of the 2nd respondent dated 10.05.2024 and for a consequential direction to the 2nd respondent to regularize the services of the petitioner from the date of their initial appointment in the post of Assistant Professors under UGC XII Plan.



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2.The case of the petitioners is that under UGC XII plan guidelines, UGC has provided assistance for the teaching staff posts created under the Plan for a period of 5 years up to 31.03.2017. This funding by the UGC is towards the salary to the posts created under the Plan. The further case of the petitioners is that as per the guidelines of UGC, it is a condition precedent that for the release of the UGC assistance against any post approved by UGC, an undertaking must be given by the University in respect of maintenance of those posts after the expiry of the XII Plan period.

3.The syndicate of the Bharathiar University in the meeting held on 28.04.2016, decided to recruit Assistant Professors under the UGC XII Plan. It was resolved to approve filling up of 14 Assistant Professors in the University Departments under the XII Plan. The petitioners were appointed as Assistant Professors after fulfilling all the eligibility criteria.

4.The respondent University also fixed the scale of pay of the petitioners and they were being paid as per the scale of pay.



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5.The grievance of the petitioners is that after the end of the Plan period, i.e., on 31.03.2017, the University failed to regularize / absorb the petitioners in the post of Assistant Professors. The petitioners made representations in this regard. Since, the same was not considered, writ petitions were filed before this Court.

6.This Court considering the relief sought for, passed an order on 07.09.2022 dismissing the writ petitions on the ground that the petitioners were contract employees and therefore, they are not entitled for regularization or permanent absorption.

7.Aggrieved by the above order, writ appeals were filed in W.A.Nos.499, etc., of 2023. The writ appeals were disposed of by judgment dated 23.06.2023 in the following terms:

“7.After some arguments, the learned senior counsel for the appellants has submitted that the appellants are confining the prayer to the limited extent of considering their representation(s) meeting out all the legal requirements by the authorities, for which the learned Government Counsel as well as the learned counsel for the University have



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submitted that they have no serious objections in passing appropriate orders on the representation(s) of the appellants.

8.In view of the limited relief now sought on the side of the appellants, which has not been opposed by the learned counsel appearing for the respondents, the appellants are directed to submit their representation(s), if not submitted earlier, to the respondents within a period of two weeks from the date of receipt of a copy of this judgment. Thereafter, the respondents are directed to consider the same on merits meeting out all the legal requirements and pass appropriate orders, after affording an opportunity of being heard to the appellants, within a period of eight weeks.”

8.Pursuant to the above judgment, the petitioners made representations before the University requesting to regularize their services in the post of Assistant Professors. Since, the same was not considered, contempt petitions were also filed. Thereafter, the 2nd respondent through impugned proceedings dated 10.05.2024, rejected the claim made by the petitioners and refused to regularize them in the post of Assistant Professors. Aggrieved by the same, these writ petitions have been filed before this Court.



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9.The 2nd respondent has filed a common counter affidavit. The University has taken a stand that all the writ petitioners were recruited only on contract basis and their initial appointment was not made in the regular post of Assistant Professors in the University. The appointments of the petitioners was done only for a period of one year on a consolidated pay salary and it was extended thereafter and at no point of time, the petitioners were brought under the regular establishment. A further stand has been taken to the effect that the petitioners have managed to continue with the employment only based on the interim orders that were passed by this Court from time to time in the writ petitions and in the writ appeals that were filed earlier.

10.The University has taken a further stand that apart from the fact that the appointments were made on contract basis on consolidated pay, the appointment is also tainted with various malpractices on the part of the then Vice Chancellor. Hence, criminal case was registered by the DVAC and the Vice Chancellor viz., Professor A.Ganapathy was found to have selected candidates and appointed on 22.11.2016 for the XII Plan period which was to come to an end on 31.03.2017. The University has



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also taken a stand that after the end of the Plan period, the petitioners are not entitled for regular employment. The offer letter that was issued to the petitioners clearly states that the appointment was on contract basis and that the petitioners cannot be allowed to turn around and seek for regularization or continuation of service as a matter of right.

11.It is further submitted in the counter that the then Vice Chancellor without obtaining the approval of the Finance Committee, has extended the services of the petitioners beyond the Plan period with effect from 01.04.2017 and has also fixed the time scale of pay for those who were appointed on contractual basis which is in violation of the UGC regulations. That apart, the Vice Chancellor did not get the concurrence of the Government and various irregularities have been committed in the appointment. The syndicate meeting held on 31.03.2017 while dealing with the request made by the petitioners for extension of time, deferred the agenda and thereby negated the extension of period beyond the Plan period. In spite of the same, the then Vice Chancellor had extended the period of service of the petitioners from 01.04.2017, which is illegal.



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12.The University has taken a further stand that the Government through letter dated 18.11.2016 had instructed not to place the recruitment of the Professors / Associate Professors / Assistant Professors subject in the syndicate meeting to be held on 19.11.2016. In spite of the same, the subject matter was placed in the special syndicate meeting held on 22.11.2016. The selection of the candidates was approved. This approval was granted against the instructions issued by the Government.

13.In view of the above, the University has taken a very categorical stand that the appointment of the petitioners beyond the Plan period is illegal and their appointment is tainted with serious irregularities which is now a subject matter of investigation by DVAC. Therefore, the University has sought for dismissal of these writ petitions.

14.When the matter came up for hearing on 14.08.2024, this Court passed the following order:



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“Heard the learned counsel for the petitioners in all these writ petitions.

2.The petitioners have challenged the proceedings of the 2nd respondent dated 10.05.2024 and have sought for regularization of their services from the date of their initial appointment in the post of Assistant Professor.

3.All these petitioners had joined the services of the University as Assistant Professors in the year 2016. Even though, initially the advertisement was issued by the University as if they are appointing Assistant Professors on contractual basis, it is seen that the services of the petitioners have been utilized till date and the consolidated pay was changed to scale of pay from the year 2017 onwards.

4.The petitioners had in fact approached this Court with a similar prayer for regularization of their service by filing W.P.Nos.30824 to 30826 of 2017. The learned single Judge was pleased to dismiss all these writ petitions. Aggrieved by the same, the petitioners filed writ appeals and the Division Bench of this Court heard W.A.Nos.499 etc., of 2023. During the course of hearing, probably due to some development, the petitioners agreed to workout their representations before the University seeking for regularization. Recording the same, the writ appeals were disposed of and directions were given to the University to deal with the representations on its own merits and in accordance with law, within a period of eight weeks.



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5. Pursuant to the above order, the impugned communication dated 10.05.2024 was issued by the University. The University has rejected the claim made by the petitioners mainly on two grounds. The first ground is that the petitioners are working under a contract and they are bound by the terms and conditions of the contract. The second ground is that the selection was done by the then Vice Chancellor Dr.A.Ganapathy and several irregularities were committed by this person during his tenure which resulted in a criminal case being registered by the DVAC. Therefore, the University has taken a stand that till the disposal of the DVAC case, the claim made by the petitioners cannot be considered.

6. The learned counsel for the petitioners submitted that there are no traces of any contract in the employment of the petitioners except for the initial application that was submitted, since the petitioners have been regularly engaged from the year 2016 till date and scale of pay was also fixed in the year 2017. It was therefore contended that the regularization sought for by the petitioners cannot be rejected on the ground that they are on contract basis on a consolidated pay salary.

7. Insofar as the second ground that was put against the petitioners, it was contended that the selection was done by the Syndicate and not by the Vice Chancellor and therefore, just because a criminal case is pending against the Vice Chancellor, the same cannot be put against the petitioners.



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8. *The learned counsel also invited the attention of this Court to an earlier order that was passed in W.P.(MD)No.3935 of 2012 etc., dated 21.09.2012 and the order of the Supreme Court in **Sushil Kumar Tipathi vs. Jagadguru Ram Bhadracharya Handicapped University and Others** reported in MANU SC 1007 2021.*

9. *By drawing the attention of this Court to the above orders it was contended that the appointment of the petitioners is not contractual in nature and that in the above cases it pertained to the UGC sanctioning of grant for the XIth Plan and in the case in hand, comes under the XIIth Plan. The learned counsel submitted that the Assistant Professors cannot be kept in tenderhooks right through their tenure without being regularized and without giving them an opportunity to move up in the scale both in terms of their post and in terms of their scale of pay.*

10. *The learned counsel for the 2nd respondent seeks for some time. Post this case under the caption 'Part Heard Cases' on 28.08.2024."*

15. Pursuant to the above order, the matter was listed for hearing on 29.08.2024 and this Court passed the following order:

"Both sides were heard elaborately. Some clarification is required with respect to one issue that was raised by the learned counsel for the petitioner. The learned counsel



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submitted that when the 14 persons were appointed on contract basis, 64 other persons were also appointed in the regular faculty both took place pursuant to the Syndicate meeting held on 22.11.2016. The learned counsel submitted that if the appointment of 14 persons are vitiated due to the involvement of the Vice Chancellor, the same must also apply to the 64 appointments towards the regular faculties. However, those persons who were appointed in the regular faculty were regularized and they also got their service benefits and they continue to serve till today.

2.The learned counsel appearing for the University must get instructions only insofar as this issue is concerned and give his reply.

3.For continuation of hearing post on 02.09.2024 at 2.15 p.m.”

16.Pursuant to the above order, the matter was listed for hearing today. This Court heard the learned counsel for the petitioners, learned Additional Government Pleader for 1st respondent, learned Standing Counsel for 2nd respondent and the learned Standing Counsel for 3rd respondent.

17.The learned counsel for the petitioners submitted that the UGC



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comes up with a Plan for every five years and provides financial assistance for five years. Thereafter, the Institution must take off from there and sustain such posts created by financing the same. The syndicate through a resolution dated 30.04.2015 decided to create and recruit 38 faculty positions in the category of Assistant Professors for XII Plan period between 2012 to 2017. Out of the 38 posts created, only 14 posts were sanctioned, out of which 13 joined and one person did not join the post.

18.The learned counsel submitted that the Notification was issued on 11.07.2016 calling for applications from all eligible candidates for the recruitment of the Assistant Professors under the UGC XII Plan. The petitioners also applied for the same and appointment orders were issued to the petitioners. The learned counsel submitted that even though the appointment order reads as if the petitioners were appointed on contractual basis, there is absolutely no indication in the appointment order showing the period of the contract and in fact this appointment was made only as against the sanctioned posts. The petitioners were also brought under the time scale of pay and this scale of pay was the one



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which was approved by the UGC for the Assistant Professors. Thereafter, the services of the petitioners was extended with effect from 01.04.2017.

19.The learned counsel for the petitioners submitted that the entire funds was received from UGC and it was utilized towards the appointment of the Assistant Professors under the XII Plan. The petitioners had no role to play in the alleged irregularity committed by the Vice Chancellor. In any case, the decisions were taken only by the syndicate and it is not an individual decision taken by the Vice Chancellor. Therefore, just because the Vice Chancellor was involved in the entire process, that by itself will not taint the entire selection process of the appointment of the petitioners.

20.The learned counsel for the petitioners further submitted that in the earlier writ petitions filed by the petitioners seeking for regularization of their services, counter was filed by the University. In that counter, they had taken a stand that the syndicate had passed a resolution in the meeting held on 29.04.2016 resolving to approve the filling up of 13 Assistant Professors in the University in various departments, who were



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appointed under XII Plan period and to absorb them in regular services.

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A further stand was taken in the counter affidavit to the effect that after the XII Plan period, the financial liabilities of the incumbents will be taken care of by the University and such financial liabilities will be subject to the financial concurrence to be given by the Government. That apart, the syndicate has also passed a resolution on 29.04.2016 resolving to approve the filling up of 14 Assistant Professors in the University and the University is anticipating the financial concurrence from the State Government.

21.In the light of the stand taken in the counter affidavit, the learned counsel submitted that the University cannot be permitted to now wriggle out of their responsibility and they cannot take a stand that the petitioners cannot be regularized just because criminal proceedings have been initiated against the erstwhile Vice Chancellor.

22.The learned counsel for the petitioners also pointed out to the counter affidavit filed by the Government wherein, the Government has taken a stand that they are not a necessary party in the writ petition and



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they have nothing to do with the reliefs sought for by the petitioners seeking for regularization and it is for the University to take a decision in that regard.

23.The learned counsel for the petitioners also pointed out to the additional counter filed by the University, wherein they had explained the procedure adopted for sanctioning 14 posts to be filled up on contract basis. They also took a stand that the petitioners are drawing their salary with a time scale of pay, but however not approved by the Finance Committee. There is also an Audit objection in this regard.

24.The learned counsel for the petitioners in order to strengthen her submission, relied upon the judgment of the Hon'ble Division Bench passed in W.A.Nos.224, etc. of 2023 dated 20.10.2023. The learned counsel submitted that the Hon'ble Division Bench had categorically held that the State Government cannot under the guise of Audit objections 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 promotions. The learned counsel submitted that



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the Hon'ble Division Bench was dealing with the UGC XI Plan and Audit objections were made in respect to the initial appointment in that case. The same was interfered by the Hon'ble Division Bench and the reliefs sought for in those cases were granted by the Hon'ble Division Bench. The learned counsel submitted that the observations made by the Hon'ble Division Bench will equally apply to the facts of the present case also.

25. The learned counsel also brought to the notice of this Court that 64 persons were appointed in the regular faculty and those also formed part of the minutes of the syndicate dated 22.11.2016. In so far as those appointments are concerned, probation was declared and those persons were also confirmed in their respective posts. Therefore, if the entire appointment was tainted due to the alleged irregularities committed by the Vice Chancellor, it was submitted that those 64 appointments must also be tainted and leaving those 64 appointments, the appointments of the petitioners alone cannot be questioned and they cannot be denied their right of regularization in this case.



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26.The learned counsel for the petitioners relied upon the judgment of this Court in ***R.Sornam and ors. Vs. Manonmainam Sundaranar University and ors.*** reported in ***MANU/TN/2837/2012***. The learned counsel also relied upon the judgment of the Hon'ble Supreme Court in ***Sushil Kumar Tipathi Vs. Jagadguru Ram Bhadracharya Handicapped University and ors.*** reported in ***AIR 2021 SC 5702***. The learned counsel also placed relied upon the order passed in **W.P.(MD).No.6635 of 2019** dated **16.06.2023**.

27.The learned counsel for the University submitted that the petitioners were not appointed in sanctioned posts and their appointment was purely contractual. The learned counsel further submitted that the entire appointment was tainted and such appointments were made without the sanction of the Financial Committee and in spite of the direction issued by the Government not to proceed further with the appointment. The learned counsel further submitted that the UGC Plan XI and UGC Plan XII cannot be equated, since the XI Plan talks about tenure and whereas the XII Plan talks about the appointment being made on contract basis.



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28.The learned counsel for the University submitted that the Audit report for 2019-2020 clearly points out to the fact that the entire appointment of the Assistant Professors is not in order and the extension of the services beyond 31.03.2017 is not in order and that apart, the University did not fulfill the three assurances as required by the UGC through letter dated 18.12.2013.

29.The learned counsel for the University also pointed out to the manner in which the appointment process took place for the 64 regular appointments and the 13 appointments that were made on contractual basis. The learned counsel submitted that the persons who were appointed in regular posts cannot be compared with the petitioners. That apart, the probation was declared for them only pursuant to the orders passed by this Court. It was also made clear that their appointment will be subject to the final result in the pending criminal case and will also be subject to Court orders, if any.



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30.The learned counsel for the University also submitted that even among the petitioners, the applications of two of the petitioners in W.P.Nos.16501 of 2024 & 16507 of 2024 was submitted beyond the last date that was stipulated for receiving the application. The last date was fixed as 01.08.2016 and whereas, the applications in these two cases were received much later.

31.The learned counsel for the University further submitted that the Notification was issued without the sanction of the Finance Committee atleast in so far as 5 posts are concerned namely, Bio-informatics, Psychology, Chemistry, Social Work and Electronics & Instrumentation.

32.The learned counsel for the respondent University submitted that there are so many irregularities found in the appointments of the petitioners and that by itself is a ground to deny their regularization and that apart, only at the end of the criminal proceedings, the entire picture would evolve and till then, the services of the petitioners should not be regularized.



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33.The learned counsel in order to substantiate his submissions,
relied upon the following judgments:

***(1)Secretary, State of Karnataka and others
Vs. Umadevi and others, (2006) 4 SCC 1;***

***(2)Official Liquidator Vs. Dayanand and
others, (2008) 10 SCC 1;***

***(3)State of Rajasthan and others Vs. Daya Lal
and others, (2011) 2 SCC 429;***

***(4)State of Uttar Pradesh and others Vs.
Rekha Rani, (2011) 11 SCC 441 and***

***(5)Secretary to Government, School Education
Department, Chennai Vs. R.Govindaswamy
and others, (2014) 4 SCC 769.***

34.The short issue that arises for consideration in all these writ
petitions is as to whether the petitioners are entitled to be regularized /
absorbed into the service as Assistant Professors from the date of their
initial appointment under UGC XII Plan.

35.The UGC XII Plan was for the period from 2012 to 2017. The
Plan itself stipulates three conditions to be fulfilled by the respective



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Universities. Before going into those three conditions, it is also pertinent to note that there is a specific reference made that only the sanctioned posts are to be filled up. The three conditions / assurances are that the State Government must take over the liability of these posts after the expiry of the XII Plan period. The second assurance is that the University through a resolution of the Executive Council must bear the burden of these posts after the XII Plan period and the third assurance is that the appointments will be made on contractual basis. That apart, the University will also follow the conditions regarding the qualifications that have been prescribed by the UGC Regulations of 2010.

36. Even though the period of the XII Plan was from 2012 to 2017, the Bharathiar University decided to create 38 faculty positions in the category of Assistant Professors for the XII Plan period only in 2015. The minutes of the meeting of the Finance Committee dated 30.04.2015 makes this clear. Out of those 38 posts, 14 posts alone were sanctioned and it was decided to fill up those posts on contract basis.

37. Even though such a decision was taken in the year 2015,



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Bharathiar University issued a Notification only on 11.07.2016 calling for applications for the post of Assistant Professors. The petitioners applied for the same and they were found to be eligible and all of them were appointed on 22.11.2016. The appointment order reads that each of the petitioner was appointed on contractual basis under UGC XII Plan period. In the appointment order, there is no mention about the period of appointment and the date on which the contractual appointment will come to an end.

38.It is also pertinent to note that the petitioners were brought under the scale of pay on 20.01.2017. This was pursuant to the syndicate resolution dated 22.11.2016, wherein the syndicate proceeded to approve the appointment. It is also pertinent to note that this syndicate resolution dated 22.11.2016 covered both the 64 appointments in the regular post and also 13 appointments that were made under the UGC XII Plan.

39.The services of the petitioners were extended with effect from 01.04.2017 until further orders by the Vice Chancellor. This resolution which was placed before the syndicate was deferred for want of time.



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40.The petitioners initially filed writ petitions seeking for regularization in W.P.Nos.30824 to 30836 of 2017. These writ petitions were considered by this Court and by order dated 07.09.2022, all the writ petitions were dismissed. While dismissing the writ petitions, the reason given by the learned Single Judge is extracted hereunder:

“29.In the present case, the appointments were made on contract basis for a period of one year on a consolidated pay salary and terms and conditions are also agreed by the petitioners. While so, the said recruitment cannot be equated with the regular appointment made against the sanctioned post in the time scale of pay. In the event of regularising such contract appointees, the same will result in denial of opportunity to all other eligible and meritorious candidates, who all are longing to secure public employment in a regular vacancy in a sanctioned post on permanent basis. Therefore, Equality Clause enunciated is to be considered in this regard. It is not as if an employer issuing a notification for an appointment and the selection was made through Selection Committee and therefore, the appointments are regular and they are entitled for regularisation. Such a view would cause denial of opportunity to the other sector of candidates, who has taken a decision not to opt for contractual appointments for a tenure period. Thus, in this regard, undoubtedly, the



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equality clause is violated and therefore, regularisation or permanent absorption if granted, then it would cause infringement of the right of those candidates, who have not opted to participate in the process of selection conducted for recruiting contract employees for a fixed period on a consolidated pay salary.

30.The practice of appointing the contract employees on consolidated pay, allowing them to continue and thereafter, granting regularisation is deprecated by the Constitutional Courts. Such practice is unconstitutional and at no circumstances, be appreciated nor be approved by the Courts.

31.That apart, in the present case, the selection itself is tainted with allegations of corruption against former Vice Chancellor, who appointed the petitioners as contract Assistant Professors on consolidated pay salary for tenure period. The Vice Chancellor was arrested and thereafter, the DVAC conducted an enquiry and filed a report, stating that the candidates, who were residing outside Coimbatore District also joined on 22.11.2016. So it is evident that the selected candidates already known that their names were in the Selection list.

32.Whether the petitioners have involved in any of these allegations or not, that need not be considered in these writ petitions. However, there is an allegation of corruption against the former Vice Chancellor, who appointed the writ petitioners on contract basis and to that extent, the Court has to form an opinion that the selection was tainted with corruption



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allegations. However, the benefit of regularisation even otherwise also cannot be considered based on the principles laid down by the Constitution Bench of the Honourable Supreme Court of India in Uma Devi's case (cited supra).

33.Merely directing the authorities to consider the representation or directing the Finance Committee to take a decision would do no service to the cause of justice. The litigants are back again to the Court for further adjudication and therefore, High Court is expected to decide the issues always in order to give quitus. Thus, this Court is not inclined to issue any such direction, which will not serve the purpose and accordingly the rights of the parties are decided.

34.The petitioners as of now are continuing as contract employees and if there is a provision under the scheme for their continuance as contract employees, then it is for the competent authorities to consider. However, the petitioners are not entitled for regularisation or permanent absorption.

35.In view of the facts and circumstances, the petitioners have not established any right for the purpose of grant of benefit of regularisation or permanent absorption.

36.Accordingly, these Writ Petitions fail and stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed."



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41.The learned Single Judge found that the appointments were made on contract basis and on a consolidated pay. Therefore, the petitioners cannot claim regularization as a matter of right. That apart, the selection itself was tainted due to the allegations of corruption made against the Vice Chancellor. Considering the materials placed before the Court, the learned Single Judge was not inclined to grant the relief and accordingly, dismissed the writ petitions.

42.When the order passed by the learned Single Judge was put to challenge before the Hon'ble Division Bench in W.A.Nos.499 etc, of 2023, it was submitted on the side of the petitioners that they are confining the prayer for considering their representation for regularization. Recording the same, the writ appeals were disposed of and paragraph Nos.7 and 8 of the judgment has already been extracted *supra*.

43.Pursuant to the above, the petitioners submitted their representations. The same has been rejected by the University by impugned proceedings dated 10.05.2024 on the ground that the



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appointments were purely contractual in nature and were made on a consolidated salary. That apart, the selection itself is tainted with allegations of corruption against the Vice Chancellor, who appointed the petitioners on contract basis and the criminal case is pending before DVAC. Therefore, the University is not in a position to take a decision on the request made by the petitioners and accordingly, the request made by the petitioners seeking for regularization was rejected by the University.

44.As mentioned above, the period of the UGC XII Plan was from 2012 to 2017. For some strange reasons, the University decided to proceed further with the appointment only during November 2016, which is towards the fag end of the XII Plan which was to come to an end on 31.03.2017. The appointment orders that were issued to the petitioners states that it was on contractual basis. This is in view of the fact that UGC XII Plan itself specified with the appointments to be made on contractual basis.

45.At this juncture, the syndicate resolution dated 22.11.2016 has a



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lot of significance. It will be relevant to extract the concerned resolution passed hereunder:

*“320.Considered to enhance the consolidated pay recommended by the Finance Committee held on 29.04.2015 vide item No.5 for the 14 Assistant Professor posts created under UGC XII Plan in the University Departments from Rs.32,000/- to **Rs.48,600/- (Basic – Rs.15,600 + AGP – 6,000 + DA (125%) - 27,000).***

*Resolved to modify the consolidated pay recommended by the Finance Committee held on 29.04.2015 vide item No.5, for the 14 Assistant Professor posts created under UGC XII Plan in the University Departments. Instead of the consolidated pay of Rs.32,000/-, they may be paid the scale of pay with all allowances and increments on a par with regular staff, which was done to the Assistant Professors of the XI Plan period **be approved.***

Further resolved to regularise their services, after the end of the XII plan period, from the date of joining the University as per the UGC letter numbers F.No.30-1/2013(SU-II), dated 08.11.2013 and F.No.30-1/2013(SU-II), dated 27.09.2016.”

46.What becomes evident from the above resolution passed by the syndicate is that the syndicate decided to modify the consolidated pay recommended by the Finance Committee for the 14 Assistant Professor



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posts and created under UGC XII Plan and decided to fix the scale of pay with all allowances and increment on par with the regular staff. It was also resolved to regularize the services after the end of the XII Plan period from the date of joining the University.

47.What also comes out of the above resolution is that the decision to fix the scale of pay for the petitioners and to extend their services and regularize the same beyond the XI Plan period was not a unilateral decision taken by the Vice Chancellor and it was a decision taken by the syndicate. Just because the Vice Chancellor had a role to play, that by itself will not completely taint the resolution passed by the syndicate on 22.11.2016.

48.The learned counsel for the University submitted that in so far as 5 posts are concerned, it was not even sanctioned by the Finance Committee. That apart, two of the petitioners had submitted their applications beyond the last date that was fixed. Apart from that, various objections were raised during the Audit and the appointment had taken place inspite of the letter issued by the Government not to appoint



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anyone under the UGC XII Plan.

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49.It is quite unfortunate that the University comes before this Court and takes a stand to the effect that the appointments were tainted and therefore, the persons who were appointed should not be regularized. It is a matter of fact that the University has received the entire grant issued by UGC for the period from 2012 to 2017. That apart, the 13 posts in which the petitioners were appointed were shown in the details of teaching staffs submitted by the University at the time of accreditation by NAAC. That apart, the 64 regular appointments that were made based on the very same resolution has been acted upon and the probation has been declared and the services have been regularized for those persons. It is not as if each one of those appointed in the regular post approached this Court seeking for regularization by declaration of probation. Only some of them approached this Court and directions were issued and whereas the University has decided to declare the probation for all those persons. While issuing the appointment orders, it was also made clear that the appointments will be subject to the final result in the criminal case and orders passed by Court, if any.



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50. When the DVAC made a preliminary enquiry, all the petitioners were also called for enquiry. Ultimately, when the FIR was registered in Crime Nos.16 of 2021 and 2 of 2018 by the DVAC, Coimbatore, the persons who were appointed were not made as an accused and it is only the Vice Chancellor and other Professors who were allegedly involved, were added as accused persons.

51. The petitioners did not have any role to play with respect to the internal problems within the University. They had merely participated in the selection and they were appointed under the UGC XII Plan. As already stated, the University has also received the grants for the entire five years towards those appointments. Therefore, when the University decided to regularize the services of those persons who were appointed towards regular posts subject to the final result in the criminal case, the petitioners must also have been considered on the same lines.

52. Except using the word “contractual” in the appointment order, there is nothing more to show that the appointment of the petitioners was



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contractual in nature. The scale of pay was fixed for the petitioners and the tenure of the petitioners was extended beyond 31.03.2017 by the syndicate. The regularization of the petitioners can also be made subject to the result of the pending criminal case. The Audit objection by itself will not be a ground to prevent the University from regularizing the services of the petitioners. The Government in the earlier writ petition had taken a very specific stand that they have nothing to do with the affairs of the University. Therefore, the University cannot now take a stand that the appointment was made in spite of the objections made by the Government. If the Government does not have any role to play in the affairs of the University, the objections made by the Government may not have any relevance to the extent of preventing the regularization of the services of the petitioners.

53.If the University was not inclined to regularize the services of the petitioners, they should have made it clear even before the Hon'ble Division Bench when the Writ Appeals were pending in W.A.Nos.499 etc, of 2023. That would have enabled the Hon'ble Division Bench to deal with the case on merits. However, the University seems to have



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informed the Hon'ble Division Bench that they do not have any objections in passing orders on the representations made by the petitioners seeking for regularization. In view of the same, those observations made by the learned Single Judge while dismissing the writ petitions pales into insignificance. Now the University cannot pass an order rejecting the regularization on the very same observations that were made by the learned Single Judge while dismissing the earlier writ petitions. The University must have put down their feet before the Hon'ble Division Bench and argued the case on merits that they are not inclined to regularize the services of the petitioners. They having taken a stand before the Hon'ble Division Bench that they will consider the plea of regularization, the order passed in the earlier writ petitions will not come in the way of this Court to deal with the case afresh on its own merits and in accordance with law.

54. In the light of the above discussion, this Court is of the considered view that the services of the petitioners which has been utilized from November 2016 onwards cannot be continuously kept under a hanging Damocles sword. That apart, this Court also finds that



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there is no bar in regularizing the services of the petitioners in view of the fact that the decisions that were taken were not the unilateral decisions of the Vice Chancellor and those were decisions taken by the syndicate. Therefore, the pending criminal case by itself will not stand in the way of the petitioners from being regularized into their services. What applied to the 64 persons who were appointed in the regular post, must equally apply to the petitioners also who were appointed under UGC XII Plan. The so called irregularities pointed out by the learned counsel for the University with respect to the appointment of some of the petitioners, will not vitiate their very appointment. This is more so since the syndicate has ratified all the appointments, brought all of them under scale of pay on par with regular staff and also regularized their services beyond the XII Plan period from the date of joining the University through syndicate resolution dated 22.11.2016.

55.In the result, the impugned proceedings of the 2nd respondent dated 10.05.2024 is hereby quashed and there shall be a direction to the 2nd respondent to regularize the services of the petitioners with all attendant benefits and the same will be subject to the final result in the



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pending criminal case and subject to any Court orders in future. By issuing such an order of regularization, the petitioners can be brought on par with those persons who were appointed in the regular posts. This process shall be completed by the respondent University within a period of six (6) weeks from the date of receipt of a copy of this order.

56.In the result, all these Writ Petitions stands allowed with the above directions. Consequently, the connected Miscellaneous Petitions are closed. No costs.

02.09.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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To

- 1.State of Tamilnadu,
Rep. by its Principal Secretary to Government,
Higher Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The Registrar,
Bharathiar University,
Coimbatore – 641 046.
- 3.University Grant Commission (UGC),
Bahadur Shah Zafar Marg,
New Delhi – 110 002.



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N.ANAND VENKATESH, J.

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