



W.P.No.18404 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2024

CORAM:

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

W.P.No.18404 of 2022
and W.M.P.No.17621 of 2023

Dr.M.Arul Dhanakar

... Petitioner

-Vs-

1. The Registrar,
Anna University,
Chennai – 600 025.
2. State of Tamilnadu,
Rep. by its Secretary,
Department of Higher Education,
Secretariat, Fort St., George,
Chennai-600 009.
3. All India Council for Technical Education,
Nelson Mandela Marg,
Vasant Kunj,
New Delhi-110 070.
4. 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 first respondent in his proceedings Procs.No.051/PR20/2018-CAS dated 26.03.2021 to the extent that promotion is granted to the petitioner



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from the post of Assistant University Librarian Grade-1 (Stage-2) to Assistant University Librarian Grade-1 (Stage-3) with effect from 22.02.2018 and to quash the same as being illegal and unsustainable in law to the extent stated hereinabove and for a consequential direction to the first respondent to give effect to the promotion order from 30.06.2013.

For Petitioner : Ms.Kavitha Rameshwar

For Respondent 1 : Mr.Avinash Wadwani
Standing Counsel

For Respondent 2 : Mr.D.Ravichander
Special Government Pleader

For Respondent 3 : Mr.B.Rabu Manohar
Senior Central Government Standing
Counsel

For Respondent 4 : Mrs.V.Sudha
Central Government Standing Counsel

ORDER

This writ petition has been filed challenging the proceedings issued by the first respondent dated 26.03.2021 to the extent that promotion is granted to the petitioner from the post of Assistant University Librarian Grade-1 (Stage-2) to Assistant University Librarian Grade-I (Stage-3) with effect from 22.02.2018 and to quash the same as illegal and consequential direction to the first respondent to give effect to the promotion order from 30.06.2013.



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2. The petitioner has been appointed as an Assistant University Librarian Grade-I and thereafter promoted to the post of Assistant University Librarian Grade I (Senior Scale) i.e., Stage I to II on 30.06.2008 through proceedings dated 23.11.2017. 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.

3. 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:

"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



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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"

4. The issue was taken by the first respondent university for clarification with the 2nd respondent with regard to the time limit for completion of the orientation/refresher course in order that the benefit of UGC regulations as well as the AICTE regulations can also be extended to the faculty and staff of the 1st respondent by way of specific Government Order. In this regard, the 2nd respondent has issued a letter dated 28.12.2022 rejecting the said request. 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 2nd respondent dated 28.12.2022 has been challenged in this writ



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petition.

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5. The petitioner had attained his age of superannuation on 31.05.2018 and before his retirement he was not only eligible for but also applied for all stages of promotion. While it is a mandate of AICTE that CAS selection should be conducted every year, however the first respondent university had conducted CAS only for Teachers in the year 2007, 2009, 2013 & 2014 excluding Assistant University Librarian. Though, the petitioner became eligible for five stages of promotion upto the date of his superannuation, he had been promoted only to stage II with effect from 30.06.2008 by an order dated 23.11.2017 and as a result of which petitioner's other promotions under the CAS could be granted to the petitioner inspite of becoming eligible for the same. Also the syndicate of the 1st respondent university had by order dated 26.03.2021 communicated to the petitioner that the approval of his promotion stage II to III w.e.f.22.02.2018. However, the said promotion could not be given effect to immediately as he had attained superannuation on 31.05.2018 and the audit had objected to giving effect to the said promotion. Now, by order dated 26.03.2021 the first respondent had passed an order stating that the petitioner have been promoted from Stage II to Stage III



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w.e.f. from 22.02.2018 as the audit objections have been cleared. It is this order of promotion dated 26.03.2021 of the first respondent to the extent that date of promotion has been stated as 22.02.2018 instead of 30.06.2013.

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

7. 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



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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 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 i.e., Assistant Professor Stage II with effect from 07.03.2013 and accordingly the consequential service benefits also can be conferred on the petitioner.*



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** 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.

8. Further the Hon'ble Division Bench of this Court in the 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, in which power of the university includes the power to make appointments as well as further promotions. Therefore, the third respondent completely ignored the factual background 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



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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 been 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.

9. Accordingly, the impugned proceedings dated 26.03.2021, passed by the 1st respondent is hereby quashed and the Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no orders as to costs.

22.02.2024
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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J.

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To

1. The Registrar,
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Chennai – 600 025.
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Department of Higher Education,
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