



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.25112 of 2024
and WMP No.27440 of 2024

N.Imthiyas Ahamed

... Petitioner

Vs.

1. The University Grants Commission,
Rep by its Secretary,
Bahadur Shah Zafar Marg
New Delhi – 110 002
2. The state of Tamil Nadu,
Rep. By its Principal Secretary to Government,
Higher Education Department,
Fort St. george,
Chennai 600 009.
3. Teachers Recruitment Board,
Rep. By its Chairman,
EVK Sampath Maaligai,
DPI Campus, College Road,
Chennai 600 006.
4. Directorate of College Education,
577, Annasalai, Saidapet, Chennai
Tamil Nadu 600 015

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to conduct certificate verification and permit the petitioner to participate in the selection for the post of assistant professor as per G.O. Ms. No 56 Higher Education (F2) Department dated 21.03.2020 by considering their qualification as on the date of their appointment as Guest Lecturers in the light of G.O. Ms. No. 305 of 2022 dated 26.12.2022 and their subsequent Ph.D., qualification and pass such further or other orders.

For Petitioner : Mr.B.Prashanth Nadaraj

For Respondents : Ms.V.Sudha
Standing counsel for R1
Mr.K.Surendran
Additional Government Pleader
for R2 and R4
Mr.R.Siddharth
Standing Counsel for R3

ORDER

This writ petition has been filed for the issue of writ of Mandamus directing the respondents to permit the petitioner to participate in the selection



for the post of Assistant Professor as per G.O.Ms.No.56 dated 21.03.2020 by considering the qualification of the petitioner as Guest Lecturer as on the date of his appointment in the light of GO Ms.No.305 of 2022 dated 26.12.2022 and the subsequent Ph.D qualification that was obtained by the petitioner.

2. Heard Mr.B.Prashanth Nadaraj, learned counsel for the petitioner and Ms.V.Sudha, learned Standing counsel for 1st respondent and Mr.K.Surendran, learned Additional Government Pleader for respondents 2 and 4 and Mr.R.Siddharth, learned Standing Counsel for 3rd respondent.

3. The case of the petitioner is that he has been serving as a Guest Lecturer in various Government colleges for more than 15 years. According to the petitioner, his selection was done by following the proper procedure on merits.

4. The Government decided to regularise the services of the Guest Lecturers as a one time measure in furtherance of GO Ms.No.56 dated 21.03.2020. Thereby 1146 posts were identified for regularisation of the Guest



Lecturers. The petitioner was expecting that his candidature will also be considered since he possesses all the requisite qualifications.

5. The 2nd respondent through GO Ms.Nos.246, 247 and 248 dated 08.11.2022, decided to fill up 4,000 vacancies of Assistant Professor by way of direct recruitment by disregarding the earlier Government Order in GO Ms.No.56 dated 21.03.2020.

6. The same became a subject matter of challenge before this Court in a batch of writ petitions in WP No.1971 etc., of 2023. This Court on considering the rival claims allowed the writ petitions in the following terms:-

7. *Thus it is clear that the norms of selection cannot be altered after commencement of selection process and Rules prescribing qualification, which were amended during the continuation of selection process, have prospective operation unless something to the contrary is indicated expressly or by necessary implication.*



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8. *Therefore, the impugned order in GO.Ms.No.248 dated 08.11.2022 granting permission for recruitment of 4000 posts of Assistant Professor including 1146 posts earmarked for regular absorption of Guest Lecturers after undergoing certificate verification as per the order in GO.Ms.No.56 dated 21.03.2020, is arbitrary, illegal and against the law for the reason that in order to fill up the posts by direct recruitment following the new method of selection as envisaged in GO.Ms.No.246 dated 08.11.2022, 1146 vacancies earmarked for absorption of eligible Guest Lecturers cannot be added in the impugned order in GO.Ms.No.248 08.11.2022.*

9. *In view of the above, the impugned order in GO.Ms.No.248 Higher Education (F2) Department dated 08.11.2022 is quashed insofar as ordered to notify 1146 vacancies which were earmarked for regular absorption of eligible Guest Lecturers as per G.O.Ms.No.56 Higher Education*



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(F2) Department dated 21.03.2020. The respondents are directed to continue the selection process to fill up 1146 posts of Assistant Professors in accordance with the earlier order passed in G.O.Ms.No.56 Higher Education (F2) Department dated 21.03.2020 based on the selection process already initiated and processed by the proceedings of the second respondent dated 12.02.2021 and complete the same within a period of twelve weeks from the date of receipt of copy of this order.

7. The grievance of the petitioner is that he possesses all the necessary qualifications and is entitled for regularisation of his service in line with GO Ms.No.56 dated 21.03.2020 in the post of Assistant Professor. However, the candidature of the petitioner was not considered and the petitioner was not called for certificate verification. It is under these circumstances, the present writ petition came to be filed before this Court.

8. When the matter was taken up for hearing, the learned Additional Government Pleader appearing on behalf of respondents 2 and 4 based on the



written instructions received from the 4th respondent submitted that aggrieved by the order passed in WP Nos.1971 etc of 2023, Writ Appeals were filed in WA Nos.1360, 1364 of 2024. The same was entertained. The contempt petitions that were filed for non-implementation of the order passed by the learned Single Judge was also closed on considering the fact that the Writ Appeal is pending.

9. The learned counsel for the petitioner submitted that the petitioner must either be regularised as per GO Ms.No.56 dated 21.03.2020. In the alternative, if 1146 posts is included among the 4,000 vacancies for direct recruitment for the post of Assistant Professor, then, the petitioner must be permitted to participate in that selection. Thus, the claim made by the petitioner is that the petitioner should not left high and dry and in whatever mode the selection takes place for the post of Assistant Professor, the petitioner must be permitted to participate in the same.

10. Considering the limited relief sought for by the petitioner, no positive directions can be given for the present in the light of the pending Writ Appeals in WA Nos.1360 and 1364 of 2024. Ultimately, based on the final result



in the Writ appeals, if the Government is able to proceed further with the entire selection by way of direct recruitment, the candidature of the petitioner can be considered during that recruitment process based on his qualification and fulfillment of the requirements. On the other hand, if the Division bench upholds the order of the learned Single Judge, then the claim made by the petitioner under GO Ms.No.56 dated 21.03.2020 shall be considered subject to the petitioner fulfilling all the requirements. This clarity will sufficiently take care of the grievance expressed by the petitioner.

11. This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

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Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
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