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W.P.Nos.27779, 27787, 27791 & 27794 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.07.2024

CORAM

THE HON'BLE MR.JUSTICE G.K. ILANTHIRAIYAN.

W.P.Nos.27779, 27787, 27791 & 27794 of 2023

Dr.Y.Nancy Jane	..	Petitioner in W.P.No.27779 of 2023
Dr.A.Saravanakumar	..	Petitioner in W.P.No.27791 of 2023
Dr.D.Sangeetha	..	Petitioner in W.P.No.27787 of 2023
Dr.B.Lydia Elizabeth	..	Petitioner in W.P.No.27794 of 2023

Vs.

1. The State of Tamil Nadu
Rep. by its Principal Secretary
Department of Higher Education
Fort St. George, Chennai – 600 009.
 2. The Director of Technical Education
DOTE Campus, Chennai – 600 025.
 3. The Anna University
Rep. by its Registrar
Guindy, Chennai – 600 025.
 4. The All India Council for Technical Education
Rep. by its Chairman
7th Floor, Chanderlok Building
Janpath, New Delhi – 100 011.
- .. Respondents
in all W.Ps



W.P.Nos.27779, 27787, 27791 & 27794 of 2023

Prayer in W.P.No.27779 of 2023: Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus, calling for the records relating to the impugned letter of the first respondent vide Letter (1D) No.356/C2/2022 Higher Education (c2) Department dated 28.12.2022, quash the same and further direct the second and third respondents to give promotion to the petitioner as Assistant Professor Stage – II from 09.12.2014 and Assistant Professor Stage – III from 09.12.2018 and Associate Professor from 09.12.2021 and grant all other consequential benefits in relation to the same with effect from the said dates and consequential further promotions under the Career Advancement Scheme (CAS) as and when they fell due;

Prayer in W.P.No.27791 of 2023: Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus, calling for the records relating to the impugned letter of the first respondent vide Letter (1D) No.356/C2/2022 dated 28.12.2022, quash the same and further direct the first and third respondents to give promotion to the petitioner as Assistant Professor Stage – II from 18.12.2014 and Assistant Professor Stage – III from 18.12.2018 and Associate Professor from 18.12.2021 and grant all other consequential benefits in relation to the same with effect from the said dates and consequential further promotions under the Career Advancement Scheme (CAS) as and when they fell due;

Prayer in W.P.No.27787 of 2023: Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus, calling for the records relating to the impugned letter of the first respondent vide Letter (1D) No.356/C2/2022 dated 28.12.2022, quash the same and further direct the first and third respondents to give promotion to the petitioner as Assistant Professor Stage – II from 15.03.2015 and Assistant Professor Stage – III from 15.03.2019 and grant all other consequential benefits in relation to the same with effect from the said dates and consequential further promotions under the Career Advancement Scheme (CAS) as and when they fell due; and

Prayer in W.P.No.27794 of 2023: Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus, calling for the records relating to the impugned letter of the first



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respondent vide Letter (1D) No.356/C2/2022 dated 28.12.2022, quash the same and further direct the second and third respondents to give promotion to the petitioner as Assistant Professor Stage – II from 20.10.2012 and Assistant Professor Stage – III from 19.01.2017 and grant all other consequential benefits in relation to the same with effect from the said dates and consequential further promotions under the Career Advancement Scheme (CAS) as and when they fell due.

For Petitioners
in all W.Ps : Mr.P.Godson Swaminath
for M/s.Isaac Chambers

For Respondents
in all W.Ps : Mr.C.Jaya Prakash
Government Advocate
for R1 and R2

Mrs.V.Srimathi
for R3

Mr.B.Rabu Manohar
SCGC
for R4

COMMON ORDER

These writ petitions have been filed challenging the order passed by the first respondent dated 28.12.2022 thereby, rejecting the request made by Anna University, Recruitment Cell – AICTE to extend the date for completing Orientation / Refresher Courses / Short-Term Training Programmes / Continuing Education Programmes for Promotion under CAS for Faculty Members / Librarians / PTIs in Degree / Diploma Level Institutions up to 31.12.2018.



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2. The petitioners are serving as Assistant Professors (Stage II) in the third respondent University. However, they are not awarded the Assistant Professor (Stage III) and Associate Professor respectively. The petitioners are qualified with B.Tech, M.Tech and PhD respectively.

3. This issue has already been dealt with by this Court in W.P.No.5701 of 2023 and the order impugned was quashed vide order dated 22.02.2024, and the extract of the same is reproduced hereunder:

"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 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



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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 petition.

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

6. 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.



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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 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."



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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.

7. 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, 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 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.

8. Accordingly, the impugned proceedings dated 28.12.2022, passed by the 2nd respondent is hereby quashed and the Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no orders as to



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costs.”

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4. In view of the above, these writ petitions stand allowed. There shall be no order as to costs. Consequently, W.M.P.Nos.27274, 27280, 27285 and 27290 of 2023 are closed.

30.07.2024

Neutral Citation : Yes/No

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To:

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The State of Tamil Nadu
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2. The Director of Technical Education
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G.K. ILANTHIRAIYAN, J.

(drm)

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