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WP.No.28576 of 2024

In the High Court of Judicature at Madras

|                                     |                                      |
|-------------------------------------|--------------------------------------|
| <b>Reserved on :<br/>17.10.2024</b> | <b>Delivered on :<br/>19.10.2024</b> |
|-------------------------------------|--------------------------------------|

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.28576 of 2024 &  
WMP.Nos.31157 to 31159 of 2024

1.S.Harikrishnan  
2.K.Selvam

...Petitioners

Vs

1.The Government of Tamil Nadu,  
rep.by its Secretary, Higher  
Education Department,  
Fort St.George, Chennai-9.

2.The Director of Collegiate  
Education, DPI Campus,  
Chennai-6.

3.Pachaiyappa's Trust Board,  
rep.by its Secretary,  
Pachaiyappa College Campus,  
Chennai-30.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records with reference to advertisement No.1/2024 dated 1.2.2024 issued by the 3rd respondent Board calling for application to the post



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of Assistant Professors by direct recruitment, quash the same so far as the non inclusion of weightage of marks for the petitioners based on their teaching experience in the colleges of the 3rd respondent Board in accordance with the policy of the Government vide G.O.Ms.No.247 and G.O.Ms.No.248 dated 08.11.2022 is concerned and accordingly direct the respondents to award them weightage marks for their experience in the constituent college of the 3rd respondent Board and accordingly select and appoint them to the post of Assistant Professor (Physics) with all attendant, service and monetary benefits on the date, on which, the other candidates under Notification No.1/2024 dated 01.2.2024 are appointed.

|                 |   |                                                                   |
|-----------------|---|-------------------------------------------------------------------|
| For Petitioners | : | Mrs.Dakshayani Reddy, SC for<br>Mrs.S.Suneetha                    |
| For R1 & R2     | : | Mr.D.Ravichander, SGP                                             |
| For R3          | : | Mr.E.Omprakash, SC for<br>Mr.M.R.Jothimanian,<br>Standing Counsel |

#### ORDER

This writ petition has been filed by the petitioners challenging the advertisement dated 01.2.2024 issued by the third respondent calling for applications to the post of Assistant Professor by direct recruitment in so far as not including the weightage marks for the



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petitioners based on their teaching experience in the constituent college of the third respondent in accordance with G.O.Ms.Nos.247 and 248 dated 08.11.2022 is concerned and for a consequential direction to the respondents to award the weightage marks to the petitioners for their teaching experience, select and appoint them to the post of Assistant Professor (Physics).

2. Heard the learned Senior Counsel appearing on behalf of the petitioners, the learned Special Government Pleader appearing for respondents 1 and 2 and the learned Senior Counsel appearing on behalf of the learned Standing Counsel for the third respondent.

3. The case of the petitioners is as follows :

(i) The first petitioner has more than 14 years of teaching experience [2002 to 2012 and 2018 to 2024] and the second petitioner has seven years of teaching experience [2009-2010 and 2018-2014] in the constituent college of the third respondent. The third respondent issued a Notification dated 01.2.2024 calling for applications for direct recruitment to the post of Assistant Professor/ Librarian/Director of Physical Education in the Pachaiyappa's Trust Board Aided Colleges at Chennai, Kanchipuram and Cuddalore. The petitioners submitted their applications to the post of Assistant



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Professor (Physics).

(ii) The grievance of the petitioners is that the weightage marks were not granted to them for their teaching experience as Guest Lecturers as per G.O.Ms.Nos.247 and 248 dated 08.11.2022. Hence, they challenged the recruitment process initiated by the third respondent.

4. A counter has been filed by the third respondent wherein the relevant portions are extracted as hereunder :

*"14. I respectfully submit that the selection and appointment to the post of Assistant Professors are governing by the UGC Regulations 2018 and therefore the third respondent has followed the UGC Regulations in the matter of direct recruitment to the post of Assistant Professors. In pursuant to notification, the petitioners applied and their candidature have been considered by the third respondent as per the UGC Regulations. But, the petitioners have not come within the zone of consideration based on marks awarded to them as per the UGC Regulations. The marks of the petitioners are as follows :*

| Appl.No.   | Name           | Subject | Comm<br>unity | Marks | Cut off |
|------------|----------------|---------|---------------|-------|---------|
| 5612508175 | S.Harikrishnan | Physics | BC            | 82    | 83      |
| 7111420273 | K.Selvam       | Physics | MBC           | 56    | 83      |

*Therefore, the petitioners have not satisfied the eligibility criteria as per the UGC Regulations and selected meritorious candidates only at the ratio of 1 : 5. Hence, the petitioners are not within the zone of*



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*consideration and they were not called for an interview based on marks.*

*15. I respectfully submit that the Government Orders in G.O.Ms.No.247 dated 08.11.2022 and G.O.Ms. No.248 dated 08.11.2022 whereby the Government took a policy to grant weightage marks to its Guest Lecturers, who are working in the Government Colleges. But, the above said Government Orders have not applicable to the Guest Lecturers, who have been appointed by the management of the fourth respondent trust in the self financing evening college and therefore, they have no right to seek weightage marks based on the above said Government Orders. However, the management has not adopted said government orders, but the management has followed the UGC Regulations for awarding marks as per Table-B. Hence, the contentions of the writ petitioners may not be correct and also it is the policy of the management.*

*16. I respectfully submit that averment made in para 10 to 12 are totally incorrect and misleading the facts. It is submitted that no grievance petitions received from any of the petitioners or any Guest Lecturer with regard to award of weightage marks as per the above mentioned Government Order. Hence, the third respondent management has decided to recruit the Assistant Professors as per the UGC Regulations and therefore, contention of the writ petitioners is totally unsustainable in view of the UGC Regulations. However, the awarding for weightage marks in the Government Order has not been binding in the third respondent institutions since the Government Orders relied by the petitioners are applicable to the Guest Lecturers, who are working in the Government Colleges only. Further, the judgment of the Hon'ble Supreme Court dated*



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*07.4.2022 has not applicable to this case and therefore, the writ petition is totally misconceived and against UGC Regulations.*

*17. I respectfully submit that averments made in para 13 to 20 are totally incorrect and misleading the facts before this Hon'ble Court. It is respectfully submitted that the UGC Regulations as well as provisions of Tamil Nadu Private Colleges (Regulations) Act and its Rules, 1976 have been duly followed by the management and the entire selection process undertaken by the management based on the UGC Regulations, 2018. Further, there is no material to show that the management has acted against the UGC Regulations as well as Act and Rules of the year 1976. Hence, contentions of the petitioners are totally incorrect, misleading facts and unsustainable in view of recruitment process undertaken by the learned Administrator of the third respondent trust."*

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned Notification.

6. The main issue that arises for consideration in this writ petition is as to whether the benefit extended under G.O.Ms.No.247 dated 08.11.2022 for the Guest Lecturers, who work in the Government Arts and Science Colleges and Colleges of Education should have been extended to the petitioners in the recruitment



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process initiated by the third respondent. The other issue that arises for consideration is as to whether the first petitioner was denied marks for the research publications made by him and whether it is in violation of the Regulations of the University Grants Commission (UGC).

7. The first petitioner claims that he should have been awarded 88 marks as per Table 3B of the UGC Regulations in the following manner :

| <i>S. No.</i> | <i>Academic Record</i>                                                                                 | <i>Score</i>  |
|---------------|--------------------------------------------------------------------------------------------------------|---------------|
| <i>1</i>      | <i>Graduation 67%</i>                                                                                  | <i>19</i>     |
| <i>2</i>      | <i>Post Graduation 69%</i>                                                                             | <i>23</i>     |
| <i>3</i>      | <i>M.Phil + Ph.D.both</i>                                                                              | <i>25</i>     |
| <i>4</i>      | <i>SET</i>                                                                                             | <i>5</i>      |
| <i>5</i>      | <i>Research Publication (2 marks for each research publications published peer - reviewed journal)</i> | <i>6</i>      |
| <i>6</i>      | <i>Teaching/Post Doctoral Experience (2 marks for one year each)</i>                                   | <i>10</i>     |
| <i>7</i>      | <i>Awards (State level/national level/international level)</i>                                         | <i>-</i>      |
|               | <i>Total marks</i>                                                                                     | <i>88/100</i> |

8. The second petitioner claims that he should have been awarded 61 marks as per Table 3B of the UGC Regulations in the following manner :



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| S. No. | Academic Record                                                                                 | Score      |
|--------|-------------------------------------------------------------------------------------------------|------------|
| 1      | Graduation 58%                                                                                  | 16         |
| 2      | Post Graduation 72%                                                                             | 23         |
| 3      | M.Phil 86%                                                                                      | 7          |
| 4      | SET                                                                                             | 5          |
| 5      | Research Publication (2 marks for each research publications published peer - reviewed journal) | -          |
| 6      | Teaching/Post Doctoral Experience (2 marks for one year each)                                   | 10         |
| 7      | Awards (State level/national level/international level)                                         | -          |
|        | Total marks                                                                                     | 61/<br>100 |

9. In so far as the first petitioner is concerned, except under the head '**research publication**', he has been awarded marks by the Scrutiny Committee as claimed by the petitioner. Thus, the first petitioner was awarded 82 marks.

10. In so far as the second petitioner is concerned, except under the head '**teaching experience**', he has been awarded marks by the Scrutiny Committee as per his expectation. In so far as head '**teaching experience**' is concerned, the Scrutiny Committee awarded only 5 marks whereas the second petitioner was expecting 10 marks.



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11. This Court will first go into the above issue before dealing with the claim made by the respective petitioner for awarding the weightage marks as per G.O.Ms.No.247 dated 08.11.2022.

12. As per Table 3B of the UGC Regulations, a candidate is entitled for a maximum of 6 marks under the head '**research publication**'.

13. The first petitioner claimed 6 marks under this head. According to the first petitioner, he had presented research publications in three journals and the copies of the same were also shown by the learned Senior Counsel appearing on behalf of the petitioners.

14. This Court had the advantage of going through the original file that was placed before this Court by the learned Senior Counsel appearing on behalf of the third respondent. After going through the same, this Court finds that the first petitioner has not furnished the copies of the research publications made by him in the journals. In the absence of any material available before the Scrutiny Committee, there is no scope for awarding any marks under the head '**research**'



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**'publication'.**

15. The learned Senior Counsel appearing on behalf of the petitioner submitted that the application form does not contain any provision to mention about the research publication and that therefore, the hard copy was enclosed along with the application.

16. On going through the application form, it is seen that there is no specific column dealing with the head '**research publication**'. Likewise, there is no specific column dealing with head '**teaching experience**' also. However, the first petitioner enclosed the relevant document to substantiate his teaching experience, but failed to enclose the relevant document to substantiate his claim under the head '**research publication**'. Hence, the decision taken by the Scrutiny Committee in not awarding any marks under the head '**research publication**' cannot be faulted. The first petitioner scored 82 marks whereas the cut off mark is 83 for a BC candidate. Hence, he does not come within the zone of consideration.

17. In so far as the second petitioner is concerned, the controversy revolves around the marks awarded to him under the head '**teaching experience**'. Table 3B of the UGC Regulations stipulates that two marks must be allotted for every year teaching



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experience subject a maximum of 10 marks. The second petitioner has a total teaching experience of 7 years. Therefore, he is entitled for 10 marks under this head. As a consequence, the second petitioner is entitled for 61 marks. Even if he is awarded 10 marks under the head '**teaching experience**', he also does not come within the zone of consideration since the cut off mark for the MBC candidate is 83.

18. This Court will now go into the main issue that has been raised by the learned Senior Counsel appearing on behalf of the petitioners for extending the benefit of G.O.Ms.No.247 dated 08.11.2022.

19. For proper appreciation, the relevant portion relied upon in the said Government Order is extracted as hereunder :

*"6. The Government after careful examination of the request of the Director of Collegiate Education, accept the same and in super-session of the orders issued in the Government Order fifth read above, hereby grant permission to the University Grants Commission qualified Guest Lecturers working in Government Colleges to take part in the open competitive written examinations, following the procedures issued in the Government Order ninth read above and such Guest Lecturers, who have cleared the written competitive examinations, shall be awarded a weightage of 2 marks for each academic year of*



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teaching experience (i.e. 11 months), subject to a maximum of 15 marks for the years of service rendered in Government Colleges, as a one time measure and the marks to be awarded for experience and interview shall be as follows :

|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                        |
|-------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 1     | <p>For guest lecturers, who have taught in Government colleges.</p> <p>teaching experience in Government colleges as guest lecturers with University Grants Commission approved educational qualifications from time to time in the posts sanctioned by the Government.</p> <p>(2 marks for each academic year (i.e. 11 months) - subject to a maximum of 15 marks)</p>                                                                                                                                                                                                                                                                                                                                   | 15 marks<br>(maximum)  |
| 2     | <p>Viva Voce<br/>(for guest lecturers)</p> <p>If a candidate has gained less than 15 months for experience, then the remaining marks will be added for viva voce component and viva voce for such candidates will be held with the remaining marks for experience + viva voce marks (i.e.) if a candidate scores 8 marks for experience, he will face viva vice for 22. (Max. marks for experience (ie) 15 minus actual experience marks 8) = 7 + 15 (viva voce marks) = 22 marks. These 22 marks shall be distributed under the four components prescribed for interview on pro-rata basis as per Government Order ninth read above (i.e.) Content, Delivery, Language and Personal Characteristics.</p> | 15 marks               |
| Total |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 30 marks<br>(maximum)" |



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20. The said Government Order was issued in order to benefit 1146 persons, who were working as Guest Lecturers in the Government colleges. There is no doubt that this Government Order was issued only for those persons as a one time measure. This was done pursuant to the orders of the Apex Court in a special leave petition on 07.4.2022.

21. The learned Senior Counsel appearing on behalf of the petitioners submitted that the petitioners are working in an aided college, which is a constituent college of the third respondent, that it is virtually under the control of the Government, that therefore, the petitioners must also be treated akin to a guest lecturer in a Government college and that the benefit of the said Government Order must be extended to the petitioners by awarding the weightage marks.

22. In order to substantiate her submissions, the learned Senior Counsel appearing on behalf of the petitioners relied upon the common judgment dated **07.4.2022** passed by the Apex Court in ***Dr.Ragu Vs. Dr.N. Elumalai [Civil Appeal No.4351 of 2016 etc. cases]***.

23. G.O.Ms.No.248 dated 08.11.2022 is only a consequential order, which took note of the fact that 4000 posts of Assistant



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Professor had to be filled up through direct recruitment and while doing so, the decision taken in G.O.Ms.No.247 dated 08.11.2022 will stand implemented.

24. G.O.Ms.No.247 dated 08.11.2022 applies only to the Guest Lecturers working in the Government colleges and it was issued specifically covering 1146 vacancies towards the same number of guest lecturers, who were engaged in the Government colleges as a one time measure. The petitioners were working only in a constituent college belonging to the third respondent and they were working in the self financing section (evening college).

25. In the first place, the aided college cannot be treated akin to a Government college in the light of the specific language that has been used in G.O.Ms.No.247 dated 08.11.2022 and the specific objective, with which, it was issued. This Government Order cannot be taken advantage by all the guest lecturers, who do not specifically fall within its purport, which covers 1146 vacancies. This Government Order was also not intended to be applied perpetually as it was issued only as a one time measure with a specific purpose.

26. The learned Senior Counsel appearing on behalf of the



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petitioners relied upon the Notification issued by the Teachers Recruitment Board dated 14.3.2024, which specifically dealt with awarding of weightage marks for guest lecturers in line with G.O.Ms. No.247 dated 08.11.2022.

27. This Notification will not come to the aid of the petitioners since the Notification that was issued by the third respondent made it very clear that the selection will be made only as per the UGC Regulations, 2018 and that the weightage marks will be awarded based on the teaching experience, higher educational qualifications and interview only as per the UGC Regulations. In view of the same, the petitioners cannot attempt to read the Government Order into the Notification that was issued by the third respondent on 01.2.2024. The selection is only based on the UGC Regulations and this Court has already held that the marks were awarded to the petitioners as per the UGC Regulations for teaching experience.

28. The common judgment of the Apex Court relied upon by the learned Senior Counsel appearing on behalf of the petitioners will have absolutely no application to the case in hand. That was a case where the employees were appointed under Rule 10(a)(i) of the Tamil Nadu State and Subordinate Services Rules for a long time and they had



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gained sufficient experience and therefore, the weightage marks were sought to be extended to those employees. That apart, the benefit of relaxation from age was also sought to be extended.

29. This common judgment of the Apex Court cannot be applied to the case in hand since the recruitment process was carried out by the third respondent as per the UGC Regulations and the relevant Government Order will have no application whatsoever for the grant of weightage marks.

30. In the light of the above discussions, this Court holds that the petitioners are not entitled to the benefit of G.O.Ms.No.247 dated 08.11.2022. The upshot of the above discussions leads to the only conclusion that there is no ground to interfere with the Notification issued by the third respondent dated 01.2.2024 and that the petitioners are not entitled to the relief sought for by them since they are not coming within the zone of consideration.

31. In the result, the writ petition stands dismissed. No costs. Consequently, the connected WMPs are also dismissed.



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RS



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N.ANAND VENKATESH,J

RS

To

- 1.The Secretary to Government of  
Tamil Nadu, Higher Education  
Department,  
Fort St.George, Chennai-9.
- 2.The Director of Collegiate Education,  
DPI Campus, Chennai-6.

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