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W.P.No.34416 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.02.2024

Pronounced on : 21.03.2024

CORAM:

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

W.P.No.34416 of 2022

Dr.E.Venkatesan

... Petitioner

Vs.

1.The Registrar,
Pondicherry University,
Dr.B.R.Ambedkar Administrative Building,
R.V.Nagar, Kalapet,
Puducherry 605 014

2.Dr.P.Nirmala

(2nd respondent impleaded vide order dated
22.06.2023 made in WMP.No.17193 of
2023 in WP.No.34416 of 2022)

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order issued by the respondent in Ref.No.PU/RC/2022-23/136 dated 30.11.2022 and to quash the same and consequently directing the respondent to fill up the post of Assistant Professor (Computer Science), Karaikal Campus, by conducting selection in accordance with UGC Regulations in transparent manner and in adherence to the principles laid down under Article 14 and 16 of the



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Constitution of India, by cancelling the undisclosed selection conducted in secret manner and in consideration of the petitioner based on merit in selection, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran,
Senior Counsel
for Mr.S.Nedunchezhiyan

For Respondents

For R1 : Mr.M.Ravi

For R2 : Mr.G.Pugazhenth

ORDER

This writ petition has been filed challenging the order dated 30.11.2022 thereby rejected the representation submitted by the petitioner seeking to allow him to participate in the interview for the post of Assistant Professor in Computer Science (Karaikal Campus) and to appoint him in the said post.

2. The first respondent issued notification for recruitment of various faculty position vide advertisement dated 05.08.2019. Thereafter, corrigendum was also issued dated 29.10.2019. Once again, the first respondent issued re-notification dated 06.07.2020 and accordingly three vacancies have been notified for the post of Assistant Professor in the



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Department of Computer Science, Karaikal Campus. The petitioner had applied for the said post enclosing his educational qualification certificates, teaching experience certificates as well as publications and award granted to him. The method of selection is based on 'academic performance indicators' (API) scores as per Table 3A of University Grants Commission Regulations, 2018. Accordingly, candidates were shortlisted for interview for the post of Assistant Professor. As per the qualification of the petitioner, he had scored 85 marks and he was in anticipation of getting call letter to attend the interview. However, after submission of his application, he had not received any communication from the first respondent. However, other persons were called for interview for the said post.

2.1 Therefore, the petitioner submitted application under Right to Information Act for the details of call letter and the list of candidates called for interview along with their API scores. However, the petitioner was not served with list of selected candidates for the reason it remains to be a third party personal information. The petitioner was furnished



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details with regards to interview conducted for the post of Assistant Professor from 01.02.2022 to 04.02.2022 and the call letter issued to the shortlisted eligible candidates. Therefore, the petitioner filed writ petition before this Court in WP.No.28798 of 2022 seeking direction to the first respondent to fill up the post of Assistant Professor in Computer Science under OBC category based on API scores scored by the petitioner in accordance with the Table-3A of UGC Regulations, 2018. This Court by order dated 01.11.2022, directed the petitioner to submit representation in this regard and the same may be considered on merits and in accordance with law. Accordingly, the petitioner submitted representation and the same was rejected by the order dated 30.11.2022 which is impugned in this writ petition on the ground that the petitioner scored only 76 marks as per the UGC Regulations and documents submitted by the petitioner. The petitioner is coming under the OBC category whereas the selected candidates under OBC category scored 78 marks as per the UGC Regulations. Therefore, the request made by the petitioner was rejected.



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3. The learned Senior Counsel appearing for the petitioner would submit that the first respondent without following the procedure established by law and without any proper assessment of merit in selection, selected the candidates. In fact, the selection was conducted without even disclosing the process of selection, shortlisting the candidates for interview, the list of selected candidates, etc at any point of time. The method of selection is based on API score of Table-3A of UGC Regulations, 2018. The Table 3A prescribes the criteria for shortlisted candidates for interview to the post of Assistant Professor in Universities. Accordingly, minimum 10 marks to be awarded for teaching experience and 3 marks to be awarded for Awards (international / national level). The petitioner is qualified with B.Sc. Computer Science, M.Sc. Computer Science, Ph.D. Computer Science. He has teaching experience from 01.08.2017 to 31.05.2018, 01.06.2018 to 22.02.2019 and 25.02.2019 to 24.07.2020 till the submission of application. His teaching experience was also duly certified by the concerned colleges. Therefore, he is entitled for 6 marks for teaching experience as per the certificates produced by him. However, the first



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respondent awarded zero mark for teaching experience. He further submitted that insofar as awards, he was awarded zero marks. The petitioner was granted with Young Researcher in Computer Science Award for the year 2017 by the Integrated Intelligent Research, a national level organisation for which the petitioner is entitled for three marks as per UGC Regulations. Therefore, the petitioner is very much qualified for selection to the post of Assistant Professor in Computer Science.

4. Heard, the learned counsel appearing on either side.

5. On perusal of counter filed by the first respondent and on the submissions made by the learned counsel appearing on either side, it is seen that the petitioner submitted his application for the post of Assistant Professor in Department of Computer Science at Pondicherry University (Karaikal Campus). The petitioner had applied as per the notification for recruitment to various faculty positions dated 05.08.2019 under OBC category. Under OBC category, there were 185 applicants to



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the post of Assistant Professor in Computer Science (Karaikal Campus).

Duly constituted Screening Committee by following UGC Regulations, /

Pondicherry University Norms, screened the applications to the post of

Assistant Professor in Computer Science (Karaikal Campus).

Accordingly, the petitioner had scored 76 marks as mentioned below.

DETAILS	MARKS OBTAINED
UG (Max 15)	13
PG (Max 25)	23
M.Phil (Max 07)	0
Ph.D.(Max 30)	30
NET/SET/SLET(Max 07)	0
Publications (MX 10)	10
Experience (Max 10)	0
Awards (Max 03)	0
Total score (Max 100)	76

6. The cut off marks prescribed for calling the candidates for interview is 78 marks for the OBC category. Whereas the petitioner had scored only 76 marks and as such, the petitioner was not called for attending interview for the post of Assistant Professor in Computer Science (OBC category). As per UGC Regulations, minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges and measures for the Maintenance of



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Standards in Higher Education, 2018, the counting of past service is necessary and crucial. Counting of past services for direct recruitment and promotion under CAS, provided under 10.0 is as follows:

10.1. Previous regular service, whether national or international as Assistant Professor, Associate Professor or Professor or equivalent in a University, College, National Laboratories or other scientific/professional organizations such as the CSIR, ICAR, DRDO, UGC, ICSSR, ICHR and DBT should count for the direct recruitment and promotion under the CAS of a teacher as Assistant Professor, Associate Professor or Professor or any other nomenclature, provided that:

- a) The essential qualification of the post held were not lower than the qualifications prescribed by the UGC for Assistant Professor, Associate Professor and Professor as the case may be.*
- b) The post is/was in an equivalent grade or of the pre-revised scale of pay as the post of Assistant Professor (Lecturer) Associate Professor (Reader) and Professor.*
- c) The concerned Assistant Associate Professor and Professor should possess the same minimum qualifications as prescribed by the UGC for appointment to the post of*



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Assistant Professor, Associate Professor and Professor, as the case may be.

d) The post was filled in accordance with the prescribed selection procedure as laid down in the Regulations of the University/State Government/ Central Government/ Institutions concerned for such appointments.

e) The previous appointment was not as guest lecturer for any duration.

f) The previous Adhoc or Temporary or contractual service (by whatever nomenclature it may be called) shall be counted for direct recruitment and for promotion, provided that:

i) the essential qualifications of the post held were not lower than the qualifications prescribed by the UGC for Assistant Professor, Associate Professor and Professor, as the case may be

ii) the incumbent was appointed on the recommendation of a duly constituted Selection Committee/Selection Committee constituted as per the rules of the respective university;

iii) the incumbent was drawing total gross emoluments not less than the monthly gross salary of a regularly appointed Assistant Professor, Associate Professor and Professor, as the case may be and



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g) No distinctions shall be made with reference to the nature of management of the institution where previous service was rendered (private/local body/ Government), while counting the past service under this clause.

7. Thus it is clear that the previous appointment was not as Guest lecturer for any duration. Further the incumbent was appointed on the recommendation of a duly constituted Selection Committee / Selection Committee constituted as per the rules of the respective University. The incumbent was drawing total gross emoluments not less than the monthly gross salary of a regularly appointed Assistant Professor, Associate Professor and Professor, as the case may be. Admittedly the petitioner had produced experience certificate and it revealed that he had experience as Guest Lecturer in the colleges, that too for consolidated pay of Rs.16,000/- per month. Therefore, as per the above said rule, the petitioner is not entitled for any mark for his teaching experience. That apart, there is no evidence to show that he was appointed on the recommendation of the duly constituted Selection Committee as per rules of the respective University. The petitioner had worked as Guest Lecturer for consolidated salary. Therefore, as per the



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rules, he is not entitled for any mark for his teaching experience. Insofar as the award is concerned, as per Table 3A of UGC Regulations, 2018, there are conditions for considering awards i.e. internationally / national level (awards given by international organisations / Government of India / Government of India recognised national level bodies. However, the petitioner failed to upload proof for awards along with his application and the petitioner annexed the award along with his representation and it revealed that he was awarded as Young Researcher (Computer Science – Data Mining) from Integrated Intelligent Research). Therefore, it is also not as per UGC Regulations. Hence, the petitioner was not awarded any marks for the awards.

8. Though the learned Senior Counsel appearing for the petitioner vehemently contended that the petitioner has experience as Assistant Professor in Bharath Institute of Higher Education, Chennai and in R.V.Government Arts and Science College, he was employed as Guest Lecturer, that too for consolidated salary of Rs.16,000/- per month. He further submitted that Regulation 10.0 is applicable only for Carrier



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Advancement Scheme of regular member of service or regularised member of service and it cannot be applied for direct recruitment to the entry level post of Assistant Professor from open market. The provision under Career Advancement Scheme cannot be applied for a person who has not even entered into the service. As rightly pointed by the learned counsel for the first respondent, for the direct recruitment, as per the UGC Regulations, 2018, 10.0 is only applicable. Accordingly, the previous appointment was not as Guest Lecturer for any duration. Further, it is applicable also for direct recruitment and promotion under CAS. Therefore, the Career Advancement Scheme is meant for promotion. Further, the regulations provided also meant for direct recruitment. Therefore, the first respondent rightly followed the University Grants Commission Regulations, 2018 and awarded 76 marks to the petitioner. Cut off marks for calling the candidates to attend the interview under OBC category is 78 marks. Therefore, the petitioner was not called for interview to the post of Assistant Professor in Computer Science (Karaikal Campus) under OBC category.



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9. Insofar as the contention of excess filling up of posts is concerned, on verification of notification, it clearly revealed that the first respondent reserves the right to withdraw any advertised post at any time without giving any reason. Any consequential vacancies arising at the time of interview may also be filled up from the available candidates. The number of positions thus shall be open to change. The University reserves the right to alter the number and nature of these vacant positions depending upon the academic need. Therefore, it cannot be said that the same is in violation of the notification issued by the first respondent while recruiting candidates to the post of Assistant Professor in Computer Science.

10. Further, the second respondent had scored 97 marks and She was rightly selected under the category of Female OBC by the first respondent to the post of Assistant Professor in Pondicherry University (Karaikal Campus) in the Department of Computer Science. Hence, the representation submitted by the petitioner was rightly rejected by the first respondent and this Court finds no infirmity or illegality in the impugned



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order passed by the respondent. As such, this writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. There shall be no order as to costs.

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Internet: Yes

Index: Yes/No

Speaking/Non-speaking order
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To
The Registrar,
Pondicherry University,
Dr.B.R.Ambedkar Administrative Building,
R.V.Nagar, Kalapet,
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G.K.ILANTHIRAIYAN, J.

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