



W.P.(MD)No.8900 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on : **16.04.2024**
Pronounced on : **25.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.8900 of 2024
and
W.M.P(MD)No.8089 of 2024

Dr.P.Senrayaperumal

.. Petitioner

Vs.

The Registrar,
ManonmaniamSundaranar University,
Abhiekapatti,
Tirunelveli- 627 012.

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the respondent's impugned order in MSU/R/Estt. (T)/history/2024 dated 13.03.2024 and quash the same and direct the respondent to reappoint as an Assistant Professor of History Department,



W.P.(MD)No.8900 of 2024

Manonmaniyam Sundaranar University, Tirunelveli.

WEB COPY

For Petitioner : Mr.M.Sathya Kumar

For Respondent : Mr.M.MahaboobAthif

ORDER

The petitioner has filed this writ petition seeking Writ of Certiorarified Mandamus to quash the impugned proceedings issued by the respondent in MSU/R/Estt.(T)/history/2024 dated 13.03.2024 and for consequential direction to the respondent to reappoint the petitioner as an Assistant Professor of History Department, Manonmaniyam Sundaranar University, Tirunelveli.

2. Heard Mr.M.Sathya Kumar, learned counsel appearing for the petitioner and Mr.M.Mohaboob Athif, learned counsel appearing for the respondent.

3. The petitioner was employed as an Assistant Professor in the Department of History in the Manonmaniam Sundaranar University, Tirunelveli and his services were confirmed on 21.11.2016. However, the



W.P.(MD)No.8900 of 2024

petitioner was removed from service in view of the decision taken by the Syndicate due to the local audit objection raised with regard to the petitioner's appointment. In the resolution, it is alleged that the petitioner did not have the minimum eligibility criteria to the appointment to the post of Assistant Professor.

4. Mr.M.Sathya Kumar, learned counsel for the petitioner submitted that the petitioner had completed pre-foundation and foundation courses at Madurai Kamaraj University and obtained Bachelor degree in History. He has a doctorate in History. After undergoing the regular selection process, he was chosen to the post of Assistant Professor (History), basing upon his qualification and performance. The pattern for obtaining these qualifications was not mentioned in any of the University communication. The petitioner did not suppress any facts while undergoing the selection process or producing his certificates. Sudden removal of the petitioner caused him mental agony. It is further submitted that the Registrar had given a memorandum stating that in accordance with the Syndicate resolution



W.P.(MD)No.8900 of 2024

dated 08.03.2024 and Vice-Chancellor's order dated 13.03.2024, the petitioner is removed from service. The removal of service could not have evaluated independently in view of the resolution passed by the Syndicate and hence, the order has been passed without application of mind. It is further submitted that the petitioner's position as an Assistant Professor in the respondent University is a milestone in his life and that should not be shattered all of a sudden.

4.1. It is further submitted that the UGC regulations 2010 does not mandate the requirements now demanded by the respondent. The petitioner's appointment cannot be retrospectively scrutinized in view of the subsequent UGC regulations released in the year 2018. It is further submitted that the petitioner has performed his service to the best satisfaction of the respondent University and he has organized various programmes and conferences and he had been a committee member and a guide for various Ph.D scholars. The petitioner had published various research papers, written books and published them. More than 30 Ph.D scholars have done their research under the guidance of the petitioner



W.P.(MD)No.8900 of 2024

and they have been awarded with Ph.D degree.

WEB COPY

5. Mr.M.Mahaboob Athif, learned counsel for the respondent University submitted that when the rules prescribe particular qualification for a post, he has to satisfy the said criteria in order to get an appointment. The petitioner had obtained foundation course and pre-foundation course through open education system. As per UGC regulations and State Government's Orders, those qualifications cannot be considered for Government appointment or service promotion. When the matter came to the notice of the University through the report of the local fund audit, a decision was taken by the Syndicate to rectify the mistake by removing the petitioner from service. The petitioner cannot have any legitimate expectation in the matter of appointment and that too when he did not possess the required qualification for the said post.

6. The genesis of the action taken against the petitioner started from the local fund audit objection. For the sake of clarity, the audit objection accorded against the petitioner is extracted below:



W.P.(MD)No.8900 of 2024

"Audit Para/2020-21

16.32)ESTABLISHMENT-ASSITANT

PROFESSORS-PROMOTION-UNDER CAS

DEFECTS:

The service Register for the following Assistant

Professor was scrutinized during the Audit 2020-21.

Sl.No.	Name of the Faculty Member	Name of the Department	Date of Joining
1	Dr.P.Senrayaperumal	History	22.11.2016

The following defects are noticed:

1.Field of specialization of the individual to be furnished.

2.The appointment file was not shown to Audit.

3.All the refresher Courses has to be attended by the individual for further promotion under CAS as per G.O.Ms.No.5, Higher Education (H1) Dept., dated 11.01.2021.

Dr.P.Senrayaperumal, Assistant Professor of History, his mode of study is not 10+2+3 pattern.



W.P.(MD)No.8900 of 2024

From To	Pay	DA	HRA	Total
01.04.2020-1.03.2021	64,900x12=7,78,800	11,033 x 12 = 1,32,396	3200x 12 = 38,400	79,133x12= 9,49,596

Hence the entire expenditure of pay and allowance of the above staff amounting to Rs.9,49,596/- is held under objection."

7. What is glaringly visible from the audit objection is that the expenditure towards pay and allowance of the petitioner from the period between 01.04.2022 and 01.03.2021 was objectionable in view of his different mode of study which is deviated from the standard pattern of 10+2+3. The petitioner has got the following qualification to his credit at the time when he was recruited.

Sl.No.	Name of the Programme/Degree	Year of Completion / duration	Mode
1	Pre-Foundation Course	January 2002 to December 2002	Madurai Kamaraj University - Directorate of Distance Education - Open University system.
2	M.A. History	November 2005	Madurai Kamaraj University - Directorate of Distance Education
3	M.Phil - Folk Performing Arts	July 2007	Madurai Kamaraj University - Regular



W.P.(MD)No.8900 of 2024

4	B.A.History	April 2009	Madurai Kamaraj University - Directorate of Distance Education
5	Foundation Course(Non- Semester)	2010-2011	Madurai Kamaraj University - Directorate of Distance Education
6	Ph.D- Art History	2013	Madurai Kamaraj University - Full time.

8. During the annual audit held from the year 2016-2020, no objection was raised to the salary payment made to the petitioner in view of his different pattern of study. It is seen that the petitioner who did not have the opportunity to continue the school education has chosen to do his pre-foundation course in the year 2002 and thereafter he continued his studies in the above said pattern. Even though the petitioner had done the foundation course in the year 2010-2011, he got his PG and UG degree directly.

9. According to the claim of the petitioner, at the time when the petitioner was appointed, UGC Regulations 2010 was in force. The minimum qualification prescribed for the post of Assistant Professor will



W.P.(MD)No.8900 of 2024

be good academic record of 55% of marks at the Master's level and qualification in the NET/SLET/SET. However, in the above Regulation, exemption was given to those who were awarded with Ph.D degree from fulfilling the qualification in NET/SLET/SET. So, it is claimed by the learned counsel for the petitioner that UGC itself has given a relaxation to the minimum eligibility and in pursuant to that the Syndicate had taken a conscious decision to appoint the petitioner and hence it shall not be recalled.

10. Mr.M.Mahaboob Athif, learned counsel for the respondent attracted the attention of the court to the exemption given by UGC for those who have been awarded with Ph.D degree from the mandatory qualification in NET/SLET/SET. But the full Bench of the Hon'ble Supreme Court in the case of *P.Suseela and others v. UGC and others* reported in **(2015) 8 SCC 129** have held that the Regulation making power of UGC is subservient to the direction issued by the Central Act and Section 20 of the Act pertaining to the questions of policy relating to national purpose and the expert body of UGC. The UGC Act will have to



W.P.(MD)No.8900 of 2024

act in accordance with the directions issued by the central Government.

WEB COPY

11. The qualification of having a pass in NET/SLET/SET is considered as a policy matter of the Government for national purpose of having sound educational system with best teachers who meet the objective standards laid down for the post. Persons awarded with Ph.D degrees prior to UGC Regulations 2009-2010 cannot be exempted from possessing a pass in the NET eligibility. The arguments advanced before the Court that Ph.D awardees have got a legitimate expectation of preference in the matter of appointment to the teaching posts in Universities without obtaining the NET qualification was not received well by the Court. It is held that the concept of legitimate expectation has no role to play if the said action is a public policy or in public interest unless action taken amounts to abuse of power. So, the expert body's recommendation to UGC, that Ph.D degree holders are equal to those who have passed NET test, is found to be beyond its bounds as prescribed under Section 20 of the University Grants Commission Act, 1956. Section 20 of the UGC Act reads as under:



W.P.(MD)No.8900 of 2024

"20. Directions by the Central Government:

(1) In the discharge of its functions under this Act, the Commission shall be guided by such directions on questions of policy relating to national purposes as may be given to it by the Central Government.

(2) If any dispute arises between the Central Government and the Commission as to whether a question is or is not a question of policy relating to national purposes, the decision of the Central Government shall be final."

12. The learned counsel for the respondent also placed reliance on the judgment of this Court in **W.P.No.8205 of 2016 [G.Muthulakshmi v. The State of Tamilnadu]** and the relevant paragraphs are extracted hereunder for better appreciation:

"11. The crucial qualification issue as to whether a Ph.D holder is entitled to get exemption from passing the NET/SLET/SET for appointment as Assistant Professor is no longer res integra. The Hon'ble Division Bench of this Court in P.Susheela and others v. University Grants Commission represented by its Chairman, New Delhi and another, 2011 (2) CTC 593 has held in paragraph-49 that the NET/SLET should be retained as compulsory requirement for appointment of Lecturers irrespective of the candidates possessing degree in M.Phil or Ph.D, holding further that the Central Government has rightly refused to approve the decision of the University Grants Commission to give relaxation to certain



W.P.(MD)No.8900 of 2024

candidates possessing M.Phil or Ph.D from appearing in NET/SLET examination, without considering the object and purpose of raising the standard of education, rather the decision is lawful and based on public interest. The relevant paragraph of the judgment of the Division Bench reads as follows:-

“49. In the light of the principles laid down by the Supreme Court, we have no hesitation in holding that the principles of Legitimate Expectation will have no application to the facts and circumstances of the present case. As noticed above, the Government of India, Ministry of Human Resources felt the need to introduce NET as compulsory for the purpose of appointment of teaching post in order to upgrade the standard of teaching. For that purpose, Expert Committees were constituted consisting of eminent experts and academicians, who recommended that NET/SLET should be retained as compulsory requirement for appointment of lecturers irrespective of the candidates possessing degree in M.Phil or Ph.D. After considering the report of Prof.Mungekar Committee, the University Grants Commission was directed to frame regulations to serve the national purpose of maintaining standards of higher education. But, the University Grants Commission, without considering the object and purpose of raising the standard of education, and without considering the global scenario, although framed regulations, but, tried to give certain relaxation to the candidates for appearing in NET/SLET examination. In our view,



WEB COPY



W.P.(MD)No.8900 of 2024

therefore, the Central Government has rightly refused to approve the decision of the University Grants Commission. Hence, the impugned regulation and the decision of the Central Government cannot, at any stretch of imagination, be held to be illegal, arbitrary or whimsical, rather the decision is rational and based on public interest and also national policy to upgrade the standards of education in the country."

12. From the above ratio, it could be seen that our High Court has laid down the law that a pass in NET/SLET is a compulsory requirement for appointment of Lecturer/Assistant Professor irrespective of the candidates possessing degree in M.Phil or Ph.D and the exemption granted by the University Grants Commission to the Ph.D holders was held unlawful."

13. By citing the above decision, Mr.M.Mahaboob Athif, learned counsel for the respondent claimed that the qualifications are prescribed at a policy level on a national purpose and hence the same shall not be diluted by anyone and further any wrong which had been already done should not be allowed to be perpetuated by allowing the petitioner to continue in service. In fact the primary objection that was raised in the case of the petitioner is not about his NET qualification. In fact the petitioner has got the NET qualification and he has also produced the



W.P.(MD)No.8900 of 2024

relevant records evidencing the same.

WEB COPY

14. So far as his other qualification of 10+2+3 pattern of study is concerned, it may be correct to say that the petitioner does not fit into the regular pattern as he had chosen to do the pre-foundation and foundation courses after his graduation. In the instant case, the petitioner has not only done the foundation course but had done it in a reverse manner, after finishing his PG graduation and UG graduation. So far as the Government Order in G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017 is concerned, this Government Order has been issued subsequent to the recommendation given by the Equivalence Committee by giving clarification that the pre-foundation course/foundation course offered by various universities cannot be recognized as equivalent to SSLC and HSC courses. Prior to the issuance of the above G.O, a clarificatory letter was issued on 03.12.2010 stating that a degree obtained through Open University system after passing the pre-foundation course and 2 years foundation course without passing 10th standard and 12th standard do not satisfy the



W.P.(MD)No.8900 of 2024

conditions of the earlier Government Orders for recognizing the basic degree. But the equivalence in respect of 10th and 12th standard was for the purpose of entering into public services of the State. But for the recruitment of the teaching staffs in the universities no role is played by the recruiting agencies of the State like Teachers Recruitment Agencies.

15. Neither UGC Regulations nor University notification calling for applications for the post of Assistant Professors have stated anything about the pattern in which 10+2+3 qualification should be obtained. All that the regulations state is possessing not less than 55% marks in the PG degree with a pass certificate in NET/SLET/SET. However, in the call letter sent to the petitioner on 27.10.2016, certificates evidencing the educational qualification of the petitioner are required to be produced. And the call letter itself is reproduced below to show the same.

"Memo No.MSU/R/ESTT/Int./2016/History/AP-401-17 dated 27.10.2016

*Sub: Application for the Post of Assistant Professor in History
(SC (A)/SC(P))-Interview called for - reg.*

He/She is requested to appear before the Selection Committee for the post of Assistant Professor in History (SC



W.P.(MD)No.8900 of 2024

(A)/SC(P)) on 3rd November 2016 at 8.30 a.m. in the University Buildings, Abishekapatti, Tirunelveli- 627012 with the following original certificates and documents which are mandatory, failing which the candidates will not be permitted to appear before the Selection Committee.

- 1. SSLC & H.SC. Mark Statements.*
- 2. U.G. & P.G. Degree Mark Statements, Provisional Certificate & Degree Certificates.*
- 3. M.Phil., Mark statement, Provisional Certificate and Degree Certificate.*
- 4. NET/SLET/SET Pass Certificate.*
- 5. Ph.D., Award Certificate / Date of Ph.D Viva- voce Examination along with Ph.D Thesis*
- 6. Community Certificate.*
- 7. Certificate for Teaching and Research experience duly signed by the Head of the Institution / College / University concerned if any and countersigned by Director of Collegiate Education/Joint Director of Collegiate Education / Competent Authority.*
- 8. No Objection Certificate & Pay Certificate from the employer, if you are in service.*
- 9. One passport size photograph.*
- 10.Copies of all Research publications in support of academic/research credentials.*
- 11. Testimonials."*



W.P.(MD)No.8900 of 2024

16. The University appears to have accepted the certificates produced by the petitioner. But on that point of time the petitioner could have only produced those certificates of his qualification as seen in the list supra. But the reasons best known to the University, the petitioner's pre-foundation course and foundation course have been accepted as equivalent to SSLC and HSC. However the list of the qualifications like UG degree, PG degree, M.Phil degree and Ph.D of the petitioner along with a pass in NET have been supported by relevant documents. The petitioner had done his PG degree in the year 2005 itself, but he has done the foundation course in the year 2010-2011. He had even done UG degree in the year 2009 which is also subsequent to his securing the PG degree. In fact, the petitioner need not have done the foundation course at all as he had already got his UG and PG degree. It is not an isolated case where a candidate chooses to do his foundation courses after having obtained UG degree and PG degree through distance mode.

17. It is probably due to the changing Government Orders issued every now and then by considering the foundation and pre-foundation



W.P.(MD)No.8900 of 2024

courses as equivalent to 10 +2 and later not recognizing them. The earlier Government Orders issued prior to the issuance of G.O.Ms.No.107 Personnel & Administrative Reforms (M) Department dated 18.08.2009, had recognized the foundation courses offered by the Universities as equivalent to 10th and 12th standard qualification. Hence, there was no difficulty. Subsequently, the Government had taken a different stand stating that the persons holding the UG degrees in the above pattern should write +2 through private mode or to do an equivalent course like foundation course subsequently. The petitioner appears to be one such person who has done his foundation course subsequent to his securing B.A., and M.A., degrees.

18. Interestingly, the petitioner had enrolled himself as a Ph.D scholar and awarded with a Ph.D degree in the year 2013 and the said fact cannot be denied. In fact, even at the time when the candidate is enrolled the Ph.D degree, his certificates in respect of his previous qualifications 10th, +2, UG and PG degrees would have been in the check list for enrolment. The petitioner's equivalent qualification



W.P.(MD)No.8900 of 2024

obtained for 10th, +2, UG and PG degrees have been accepted in order to get him to Ph.D research program. The petitioner was awarded with Ph.D degree and he was also enrolled as a guide for guiding many Ph.D scholars. In fact, the petitioner has furnished atleast 31 scholars who had done the Ph.D doctoral programme under his guidance and who have been awarded with Ph.D degree. Allowing the petitioner to do his Ph.D program would show that his previous educational qualifications have been accepted. In fact the respondent University has also accepted the petitioner's Ph.D qualification and all other educational qualification for appointing him to the post of Assistant Professor. Even the UGC has also given a public notice on 23.02.2018 stating that the degrees, diplomas and certificates awarded for programmes conducted by Open and Distance Learning mode (ODL) institutions recognized by the erstwhile Distance Education Course (DEC)/UGC in conformity with the UGC notification on specification of degree should be treated as equivalent to the corresponding awards of Degrees/Diploma/Certificate of the traditional Universities/Institutions in the country. The public notice of UGC is extracted below for better understanding:



W.P.(MD)No.8900 of 2024

WEB COPY www.ugc.ac.in/deb



UNIVERSITY GRANTS COMMISSION
DISTANCE EDUCATION BUREAU
35-FEROZE SHAH ROAD
NEW DELHI-110 001

F. No. 1-9/2018 (DEB-I)

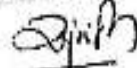
23rd February, 2018

PUBLIC NOTICE

The Government of India has envisaged a greater role for the Open and the Distance Education System. The envisioned role may be fulfilled by recognizing and treating the Degrees/Diplomas/Certificates awarded through distance mode at par with the corresponding awards of Degrees/Diplomas/Certificates obtained through the formal system of education. Open and Distance Education System in the country is contributing a lot in expansion of Higher Education and for achieving target of Gross Enrolment Ratio, without compromising on quality. Non recognition/non equivalence of degrees of Open and Distance Learning (ODL) institutions for the purpose of promotion/employment and pursuing higher education may prove a deterrent to many aspiring students and will ultimately defeat the purpose of Open and Distance Education.

Accordingly, the Degrees/Diplomas/Certificates awarded for programmes conducted by the ODL institutions, recognized by the erstwhile DEC/UGC, in conformity with UGC Notification on Specification of Degrees should be treated as equivalent to the corresponding awards of the Degree/Diploma/Certificate of the traditional Universities/Institutions in the country.

UGC has notified UGC (Open and Distance Learning) Regulations, 2017 in the official Gazette on **23/06/2017**. As per UGC (Open and Distance Learning) Regulations, 2017 under Part-I (2)(p), the programmes in engineering, medicine, dental, pharmacy, nursing, architecture, physiotherapy and such other programmes which require hands-on training are not permitted to be offered under Open and Distance Learning mode.


(Prof. Rajnish Jain)
Secretary



W.P.(MD)No.8900 of 2024

WEB COPY

19. So, there cannot be any restrictions for Universities to consider and ratify the Degrees obtained through distance mode by the petitioner.

20. If the demand of the petitioner is for relaxation in respect of NET pass, there is force in the argument of the learned counsel for the respondent that it is on a national purpose and neither UGC nor the Selection Committee can have an upper hand to relax the same. In view of the notice of the UGC, there cannot be any quarrel that the UG and PG degree obtained through Open and Distance Learning mode (ODL) and Distance Education Course(DEC) mode are equivalent to such degrees awarded by the traditional Universities/Institutions.

21. Now the limited challenge for the petitioner is only in respect of the petitioner's qualification in respect of 10th standard and 12th standard. It is reiterated that the petitioner is not appointed through any Government recruitment agency for any public appointment in order to place him under the scanner of various Government Orders including the



W.P.(MD)No.8900 of 2024

latest Government Order in G.O.Ms.144 Personnel and Administrative Reforms (M) Department, dated 20.11.2017. Even in the above Government Order, the persons appointed in the public appointment in the Government of Tamilnadu have challenged its retrospective implementation and the same is pending before the Division Bench in W.A.No.462 of 2014.

22. The petitioner's foundation and pre-foundation qualifications have been acquired much prior the issuance of G.O.No.144. Even by a far stretch of imagination if the petitioner's appointment is considered on par with public appointments of the Government of Tamilnadu, the petitioner has almost acquired his foundation and pre-foundation course when the previous Government Orders had been issued by recognizing its equivalence. However, for the sake of clarity, it is reasserted that the petitioner is not appointed by the Government through any Teachers Recruitment Board but by the respondent University, after a conscious decision taken by the Syndicate which is the highest administrative body of the University. The Government has constituted an Equivalence



W.P.(MD)No.8900 of 2024

Committee in view of the fact that the candidates applying for the public post under the Government of Tamilnadu were in habit of getting equivalent degrees from various universities and subsequently Government Orders are passed with regard to the equivalence only basing on the recommendation made by the Equivalence Committee.

23. In Universities, they have Expert Committee which has to take a call whenever any question of equivalence in the appointments of faculty members of the University comes up for consideration. The petitioner who appears to be a person from a down trodden community and who did not have the opportunity to go to regular schooling had found his future by joining various distance mode courses and secured Doctorate as well. As stated already, the petitioner's very enrolment for Ph.D programme itself would show that his previous qualification which is deviant from the regular mode of 10 +2 +3 had been approved. As stated already neither the UGC regulations nor the notification of the University calling for applications from the eligible candidates had prescribed any specific mode for acquiring the basic 10 +2 +3. In fact,



W.P.(MD)No.8900 of 2024

the UGC regulations speak about having not less than 55% marks in the PG degree along with the pass in NET/SLET/SET.

24. The petitioner has also got Ph.D degree apart from the fulfilment of the above requirement. It is not the contention of the respondent that the petitioner had suppressed any material information at the time when he had produced his certificates and misled the University. Having consciously satisfied by the qualification of the petitioner, now the respondent University has turned back only in view of the objection raised by the local fund audit. In fact the petitioner, after receiving a notice on 05.05.2023, had sent a request to provide supporting documents to offer his explanation and one such document is Syndicate letter dated 21.12.2016 and the another one is local fund audit report for all the financial years from 2016 to till date. The respondent University without considering the above request and furnishing the petitioner with the above documents in order to enable him to defend his case effectively, has passed a resolution to remove the petitioner from service. The respondent University is estopped from passing such order of



W.P.(MD)No.8900 of 2024

removal by citing the reason of not having the basic qualification.

WEB COPY

25. The petitioner did not suppress any information about his qualification and his appointment has been given after scrutinizing all the certificates produced by him and after having made a conscious decision about his merit and ability. In fact, the local fund audit had the occasion to audit promotions in order to find out any deficiencies. The local fund audit would have also scrutinized the promotion from the level of Assistant Professors and whether such promotions have been given for those who had fulfilled the requirement criteria for promotion. For instance as per the UGC Regulations, Ph.D degree is mandatory. Even the 2019 UGC Regulations would also state that the candidate awarded with Ph.D degree by UGC Regulations 2009 or UGC (minimum standards and procedure for award M.Phil/Ph.D degree) Regulations, 2016 shall be exempted from the requirement of minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor and any equivalent post in University/College/Institutions. Neither of the UGC Regulations would



W.P.(MD)No.8900 of 2024

speak about the public appointments in the Government. It is obviously because it is not a governing body to regulate such affairs of the Government, but it has powers to make regulations as prescribed under Section 26 of the University Grants Commission Act, 1956. For the sake of clarity, Section 26 of the UGC Act is extracted as below:

"26. Power to make regulations .-(1) The Commission may, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder:-

- (a) regulating the meetings of the Commission and the procedure for conducting business thereat;*
- (b) regulating the manner in which and the purposes for which persons may be associated with the Commission under section 9;*
- (c) specifying the terms and conditions of service of the employees appointed by the Commission;*
- (d) specifying the institutions or class of institutions which may be recognised by the Commission under clause (f) of section 2*
- (e) defining the qualifications that should ordinarily be required of any person to be appointed to the teaching staff of the University having regard to the branch of education in which he is expected to give instruction;*
- (f) defining the minimum standards of instruction for the grant of any degree by any University;*
- (g) regulating the maintenance of standards and the co-ordination of work or facilities in Universities.*
- (h) regulating the establishment of institutions referred to in clause (ccc) of section 12 and other matters relating to such institutions;*
- (i) specifying the matters in respect of which fees may be charged, and scales of fees in accordance with which fees may be charged, by a college under sub-section (2) of section 12-A;*



W.P.(MD)No.8900 of 2024

(j)specifying the manner in which an inquiry may be conducted under sub-section (4) of section 12-A;

(2)No regulation shall be made under clause (a) or clause (b) or clause (c) or clause (d) or clause (h) or clause (i) or clause (j) of sub-section (1) except with the previous approval of the Central Government.

(3)The power to make regulations conferred by this section except clause (i) and clause (j) of sub-section (1) shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the regulations or any of them but no retrospective effect shall be given to any regulation so as to prejudicially affect the interests of any person to whom such regulation may be applicable.

26. So, there cannot be any confusion between the public appointments of the Government and the appointments made by the Universities in accordance with the Regulations laid down by the UGC. If the local fund audit raises objections on the wrong premise that the candidate appointed in the University should be subjected to Government Regulations, the respondent University ought to have given a clarification about the fulfillment of required qualification of the petitioner for getting an appointment as the Assistant Professor of the History Department.



W.P.(MD)No.8900 of 2024

WEB COPY

27. Different conditions are being made at different points of time with regard to the basic qualification for the public appointment of Government of Tamilnadu and it is the concern of those persons who aspire to get the said posts and not the teaching faculty who are appointed by the University pursuant to the decision made by the Syndicate. It is obviously because the Central Government is giving the University Grants and not the State Government. Even, if at any future point of time, the State Government undertakes the financial commitments of the Universities, it shall not cause any retrospective reversal of the appointments and other benefits granted by the University through the earlier resolution passed by the Syndicate, which is the supreme body.

28. In view of the same, this writ petition is **allowed** and the impugned order of the respondent in MSU/R/Estt.(T)/history/2024 dated 13.03.2024 is set aside. The respondent University is directed to reinstate the petitioner forthwith with continuity of service and back wages and



W.P.(MD)No.8900 of 2024

with all other attendant benefits. The period during which the petitioner was out of service shall be treated as duty with pay. No Costs.

Consequently, connected miscellaneous petition is closed.

25.06.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
PJL

To
The Registrar,
Manonmaniam Sundaranar University,
Abhiekapatti,
Tirunelveli- 627 012.



WEB COPY



W.P.(MD)No.8900 of 2024

R.N.MANJULA, J.

PJL

Pre-delivery Order made in
W.P.(MD)No.8900 of 2024

25.06.2024

Page No.30 of 30