



W.P.(MD)Nos.21753 to 21776 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 21.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)Nos.

21753,21754,21755,21756,21757,21758,21759,21760,21761,21762,21763,
21764,21765,21766,21767,21768,21769,21770,21771,21772,21773,21774,
21775,21776 of 2021

&

W.M.P.(MD).Nos.

18347,18348,18349,18350,18351,18352,18354,18355,18356,18357,18358,
18359,18360,18361,18362,18363,18364,18365,18366,18367,18368,18369,
18370,18371,18372,18373,18374,18375,18376,18377,18378,18379,18380,
18381,18382,18383,18384,18385,18386,18387,18388,18389,18390,18391,
18392,18393,18394,18395 of 2021

W.P.(MD).No.21753 of 2021

R.Ravichandran

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary to Government,
Higher Education Department,
St.George Fort, Chennai

2 The Vice Chancellor
Bharathidasan University
Tiruchirapalli, Tiruchirapalli District



W.P.(MD)Nos.21753 to 21776 of 2021

3 The Registrar
Bharathidasan University
Tiruchirapalli,
Tiruchirapalli District

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings in Na.Ka.No.B1/33350/2016 dated 29-08-2019 and quash the same as illegal in so far as appointing the petitioners as Junior Assistants is concerned and consequently to direct the respondents to appoint the petitioners as Assistant strictly in conformity with notification issued by the 3rd Respondent vide his notification in No.B1/33350/2016 dated 08-01-2017 and confer all other service and monetary benefits with effect from the date of our initial appointment including the salary within the period that may be stipulated by this Court.

For Petitioners : Mr.M.Ajmal Khan, Senior Counsel
in all cases for
M/s.Ajmal Associates

For Respondents : Mr.V.Omprakash, Govt.Advocate for R1
in all cases
Mr.VR.Shanmuganathan for R2 and 3



W.P.(MD)Nos.21753 to 21776 of 2021

COMMON ORDER

WEB COPY

All the petitioners in these batch of Writ Petitions approached this Court by filing the present Writ Petitions, basing upon a common cause of action and the issue that arise for consideration is also one and the same and hence all the Writ Petitions are taken up for consideration and are being disposed of by this common order.

2. The 3rd respondent university issued a notification bearing No.B1/33350/2016 dated 08.01.2017 proposing to fill up 33 posts of Assistants being backlog vacancies in the respondent University. In terms of the said notification, the selected candidates will be appointed initially on daily wage basis and on satisfactory service and conduct the selected candidates will be absorbed in the regular time scale of pay. All the petitioners here in have participated in the selection process pursuant to the above said notification and emerged as successful candidates and they were all appointed in the post of Assistants on daily wage basis in terms of the said notification. The respondent University on finding that the services of the petitioners are satisfactory, absorbed their services in the regular time scale of



W.P.(MD)Nos.21753 to 21776 of 2021

pay. However, instead of absorbing them to the post of Assistants, they were absorbed in the post of Junior Assistants. Aggrieved by the said action of the 3rd respondent, the petitioners approached this Court by filing the present batch of Writ Petitions.

3. Heard Mr.Ajmal Khan, learned Senior counsel appearing for the petitioners and Mr.V.Omprakash, learned Government Advocate appearing for the 1st respondent and Mr.VR.Shanmuganathan, learned counsel appearing for the respondents 2 and 3.

4. Mr Ajmal Khan, learned Senior counsel, appearing for the petitioners contended that the petitioners have undergone the rigorous selection process and emerged as successful candidates for the post of Assistants, but not for the post of Junior Assistants and they are entitled to be absorbed in the post of Assistants alone but not in the post of Junior Assistants. He also further contended that the post of Assistant is a promotional post to the post of Junior Assistant and therefore the 3rd respondent University is not right in appointing the petitioners in the feeder



W.P.(MD)Nos.21753 to 21776 of 2021

category to the post for which they were infact selected and appointed pursuant to the notification and after undergoing the regular selection process.

5. On the other hand the respondent University has filed a counter affidavit stating that there is a change in the existing nomenclature, of the Assistants to that of Junior Assistants. Except such change in the nomenclature there is no change in the service conditions of the petitioners and the said change in the nomenclature is also stated to have been effected by virtue of the resolution passed by the Syndicate of the respondent University vide resolution No.2001.139 dated 06.10.2001.

6. This court having noticed the said contention in paragraph 6 of the counter affidavit called upon the respondent University to produce a copy of such resolution before this Court. Accordingly, a copy of such resolution is placed before this Court. This Court having perused the said resolution found nothing in the said resolution about change of nomenclature of the post of Assistant to that of Junior Assistant. Further, on being asked, it is brought to



W.P.(MD)Nos.21753 to 21776 of 2021

the notice of this Court by the learned counsel appearing for the respondent University that the Assistants who were working prior to the appointment of the petitioners herein as Assistants on daily wage basis are still being continued as Assistants and the nomenclature of the said post is not altered to that of Junior Assistants. It is also an admitted fact that the post to which the petitioners are now absorbed i.e., Junior Assistant is in the feeder category to the post of Assistant. If that be the case, the stand of the respondent University as taken in the counter affidavit is totally false and the impugned action of the respondents 2 and 3 in absorbing the petitioners as Junior Assistants instead of absorbing them in the post of Assistants, cannot be sustained.

7. In the absence of any justification for absorbing the petitioners in the post of Junior Assistants instead of absorbing them in the post of Assistants for which a notification was issued and the petitioners were selected, the action of the respondent University is liable to be declared as illegal and arbitrary and all the petitioners are entitled to be absorbed in the post of Assistants and are also entitle for all other consequential benefits.



W.P.(MD)Nos.21753 to 21776 of 2021

8. Accordingly, all the Writ Petitions are allowed directing the 3rd respondent University to treat the absorption of the services of the petitioner to the post of Junior Assistants on absorption into the post of Assistant from the respective dates of absorption of the petitioners and extend all other consequential benefits. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

21.03.2024

NCC : Yes/No

Index : Yes/No

kpr

To

1. The Secretary to Government,
State of Tamil Nadu
Higher Education Department,
St.George Fort, Chennai
- 2 The Vice Chancellor
Bharathidasan University
Tiruchirapalli, Tiruchirapalli District
- 3 The Registrar
Bharathidasan University
Tiruchirapalli,
Tiruchirapalli District



WEB COPY



W.P.(MD)Nos.21753 to 21776 of 2021

MUMMINENI SUDHEER KUMAR, J.

kpr

W.P.(MD)Nos.
21753,21754,21755,21756,21757,21758,21759,21760,21761,21762,21763,
21764,21765,21766,21767,21768,21769,21770,21771,21772,21773,21774,
21775,21776 of 2021

&

W.M.P.(MD).Nos.
18347,18348,18349,18350,18351,18352,18354,18355,18356,18357,18358,
18359,18360,18361,18362,18363,18364,18365,18366,18367,18368,18369,
18370,18371,18372,18373,18374,18375,18376,18377,18378,18379,18380,
18381,18382,18383,18384,18385,18386,18387,18388,18389,18390,18391,
18392,18393,18394,18395 of 2021

21.03.2024