



W.P(MD)Nos.23267 and 23268 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2024

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD).Nos.23267 and 23268 of 2024

and

W.M.P(MD)Nos.19705, 19706, 19709 & 19712 of 2024

1.G.Siva

..Petitioner in W.P(MD)No.23267 of 2024

2.N.Rekha

..Petitioner in W.P(MD)No.23268 of 2024

Vs

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

2. The Vice Chancellor,
Bharathidasan University,
Trichy,
Trichy District.

3. The Registrar,
Bharathidasan University,
Trichy,
Trichy District.

... Respondents
(In both cases)



W.P(MD)Nos.23267 and 23268 of 2024

COMMON PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court 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 ந.க.எண்.பி1/33350/2016 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 Assistants is concerned and consequently to direct the respondents to appoint the petitioners as Assistants 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 their initial appointment including the salary within the period that may be stipulated by this Court.

For Petitioner : Mrs.J.Irfana Fathima
For M/s.Ajmal Associates
(In both cases)

For R1 : Mr.N.Satheesh Kumar
Additional Government Pleader
(In both cases)

For R2 & R3 : Mr.V.R.Shanmuganathan
(In both cases)



W.P(MD)Nos.23267 and 23268 of 2024

COMMON ORDER

WEB COPY

The instant writ petitions have been filed by the Junior Assistants working in the respondent University challenging the order of their appointment dated 29.08.2019, wherein, they have been appointed as Junior Assistants, instead of Assistants, for which a notification was issued by the respondent University.

2. According to the learned Counsel appearing for the petitioners, the respondent University has issued a recruitment notification calling upon the eligible candidates to apply for the post of Assistant. The petitioners have applied pursuant to the said notification and having been found qualified and eligible, the petitioners were selected. However, at the time of issuing the appointment orders, the petitioners were appointed as Junior Assistant in a lower pay scale instead of Assistant, for which the notification issued and selection process conducted.

3. The issue is no longer *res integra*. Similar batch of petitions in W.P(MD)No.21753 of 2021 have been filed before this Court and this Court



W.P(MD)Nos.23267 and 23268 of 2024

was pleased to allow the petitions on 21.03.2024 with a direction to the University authorities to treat the appointment of the petitioners therein to the post of Junior Assistant as appointment to the post of Assistant from their respective date of absorption and extend all other consequential benefits. The order of the writ Court was challenged by the University in W.A(MD)Nos. 1373 to 1396 of 2024. The Hon'ble Division Bench of this Court has dismissed those writ appeals on 21.08.2024 and the operative portion of the order is extracted as follows:

"9. Having called for applications for the post of Assistant, conducted a selection process, and appointed individuals to the position temporarily on a daily wage basis, the University cannot now rechristened them as Junior Assistants and place them in a lower pay matrix or pay cell. What the University is attempting is to conduct a selection process for a higher post, for which lower posts serve as a feeder category, and then appoint the selected candidates to the lower post. In our opinion, this is impermissible. The Writ Court has also observed that the University's service rules still provide for promotion from the post of Junior Assistant to Assistant. Therefore, a person, who has participated in the recruitment process for a higher post cannot be appointed to a feeder category position. Hence, we see no merit in the Writ Appeals. The Writ Appeals are therefore dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed."

4. In view of the above said facts, the order impugned in the writ petitions is set aside insofar as the writ petitioners are concerned and there



W.P(MD)Nos.23267 and 23268 of 2024

shall be a direction to the respondent University to absorb the petitioners as Assistant from the date of their respective appointment and confer all other consequential benefits.

5. Accordingly, these writ petitions stand allowed to the extent as stated above. No costs. Consequently, the connected miscellaneous petitions are closed.

01.10.2024

Index : Yes / No
Internet : Yes/ No
lr

To

The Secretary to Government,
Higher Education Department,
St. George Fort,
Chennai.



WEB COPY



W.P(MD)Nos.23267 and 23268 of 2024

R.VIJAYAKUMAR, J.

lr

W.P(MD).Nos.23267 and 23268 of 2024

01.10.2024