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W.A.No.322 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2026

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

and

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.A.No.322 of 2022

and

C.M.P.No.7773 of 2024

The Secretary,
Arulmigu Palaniandavar College of Arts and Culture,
Palani – 624 601

...Appellant

Vs.

1. S.Umarani
2. The Government of Tamil Nadu,
represented by its Secretary to Government,
Hindu Religious and Charitable Endowments Department,
Fort St.George,
Chennai – 600 009.
3. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.
4. The Secretary,
Higher Education Department,
Secretariat, Chennai – 600 009.
5. The Director of Collegiate Education,
Institute of Advanced Study in Education,



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Anna Salai, Saidapet,
Chennai – 600 015.

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6. The Joint Director of Collegiate Education,
Sellur, Madurai – 625 002

(R4 to R6 impleaded vide order of Court
dt.06.03.2023 made in CMP.No.3142/2023 in
W.A.322/2022(RMDJ & MSQJ)

..Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the
order made in W.P.No.308 of 2014 dated 6.7.2021 on the file of this Court.

For Petitioner : Mr.R.Bharanidharan

For Respondents : Mr.T.Arun
for Mr.R.Udhayakumar for R1
Mr.S.Ravichandran,
Addl.Govt.Pleader for R2 & R3
HR&CE
Mr.K.H.Ravikumar,
Govt.Advocate for R4 to R6

J U D G M E N T

S.M.SUBRAMANIAM,J.

Under assail is the writ order dated 06.07.2021 passed in
W.P.No.308 of 2014. Writ of Mandamus has been instituted by the 1st
respondent seeking a direction to the HR&CE Department and the
Secretary, Arulmigu Palaniandavar College of Arts and Culture, to appoint



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(regularise) the petitioner in the post of Assistant Professor of Zoology from the date of her initially appointment in July 2002 together with all consequential service benefits. Since the Writ Court issued a direction to the Secretary, Arulmigu Palaniandavar College of Arts and Culture, to submit a proposal to the Secretary, Higher Education department, who in turn, was directed to process the application and pass appropriate orders within a period of eight weeks, the present writ appeal came to be instituted by the Secretary, Arulmigu Palaniandavar College of Arts and Culture.

2. Learned counsel for the appellant would mainly contend that in paragraph No.13 of the writ order, the writ Court held that the case of the 1st respondent is a fit case for regularisation and she is entitled to monetary benefits with effect from the date of filing of the writ petition. However, a direction was issued to take a decision. Since the relief granted is contradictory, present intra Court Appeal has been instituted under Clause 15 of Letters Patent.

3. Governing legal principles on regularisation and permanent absorption are settled by the Constitutional Courts. They are :

(i) All public appointments are to be made under the Constitutional scheme of appointments and in accordance



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with the recruitment rules applicable to the establishment.

(ii) Equal opportunity in the public employments is the constitutional mandate.

(iii) All eligible candidates aspiring to secure public employment must be provided with an opportunity to participate in the open competitive process and by applying the rule of reservation.

(iv) Any back door appointment cannot be a ground to seek regularisation or permanent absorption in the sanctioned post.

(v) Irregular and illegal appointments cannot be regularised in violation of Service Rules.

4. Educational qualifications and the criteria fixed for the public appointments cannot be diluted nor the High Court, in exercise of power of judicial review, can dispense with the educational qualification and the criterias fixed for public appointments.

5. Coming to the facts of the case, the 1st respondent, admittedly, engaged as a Teaching Assistant, initially in July, 2002. However, no order of appointment was issued and as per the appellant Management, she was



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engaged by the then Principal of the College, based on his oral appointment. Even the 1st respondent has not produced any appointment order in respect of subsequent engagement of the 1st respondent as Guest Lecturer from the year 2011. She was continuing based on the oral engagement made by the then Principal.

6. The 1st respondent participated in the subsequent selection, notified by College Management, in the year 2007-2008. But she was unsuccessful. However, she was allowed to continue as a Guest Lecturer from the year 2014 onwards based on the interim order passed by this Court. Thus, it is a litigious continuance in service during the pendency of the writ petition and the present intra court appeal.

7. Learned counsel for the appellant would mainly contend that the initial appointment of the 1st respondent was not in accordance with the recruitment rules. No appointment order was issued. The 1st respondent did not possess the requisite qualifications as prescribed under the University Grants Commission Regulations. She is unqualified to hold the post of Assistant Professor. Secondly, the 1st respondent passed M.Sc., Applied Biology, which is not equivalent to M.Sc., Zoology even as per the orders of the Government issued in G.O.Ms.No.66, Higher Education Department



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dated 24.04.2019. That apart, she participated in the selection of the year 2008 and not selected. The writ Court has not considered the educational qualification possessed by the 1st respondent and the initial illegal appointment made without even issuing an order of appointment. The Government will not sanction grant-in-aid in the absence of making the appointment in accordance with the UGC Regulations. Thus, the Writ Order is to be assailed.

8. Learned counsel for the 1st respondent would oppose by stating that the 1st respondent is continuing in service for a considerable length of time. No doubt, she is continuing without any appointment order, but she possess the requisite qualifications. As per G.O.Ms.No.72, Higher Education Department dated 30.04.2013, M.Sc., Applied Biology (Zoology) is equivalent to M.Sc., Zoology, Gandhigram University. That apart, Gandhigram University has issued a certificate stating that M.Sc., Applied Biology programme during 1993-1995 and her B.Sc. Degree was in the subject Zoology and she is eligible to teach Zoology. When The Gandhigram University has given eligibility certificate stating that the 1st respondent is eligible to teach Zoology, there is no other reason to hold that the 1st respondent did not possess the requisite qualifications. Similarly placed teachers were brought under the regular time scale of pay . Even



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some teachers who did not possess the requisite qualifications have been brought under regular time scale of pay. However, the said benefit is not extended to the 1st respondent. Thus, the Writ Court is right in allowing the writ petition.

9. Learned counsel for the 1st respondent drew the attention of this Court that the cases of similarly placed teachers were considered. Therefore, the petitioner alone cannot be isolated and she is eligible for regularisation and permanent absorption in the post of Assistant Professor.

10. This Court has considered the rival submission made between the parties to the lis.

11. In the context of legal position stated in the opening paragraph, this Court has to examine, whether the 1st respondent is entitled to regularisation and permanent absorption in the post of Assistant Professor.

12. The Constitutional Bench of the Hon'ble Supreme Court of India in the case of **Secretary, State of Karnataka vs Uma Devi**¹ held that irregular or illegal appointments cannot be regularised. The Court held that

¹ (2006)4 SCC 1



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the litigious continuance cannot be a ground to seek regularisation that the incumbent was continuing in service for fairly a long period. Educational qualification, at no circumstances be dispensed with either by the appointing authority or by the High Court. Teaching is a noble profession. Educational qualifications for teaching posts are of paramount importance. Unless a teacher studied through regular course in the same discipline, both in UG, PG and in higher studies, she or he may not be eligible to teach the subject to the students. Thus, the importance of educational qualifications for teaching posts at no circumstances be compromised and strict adherence to the qualifications is necessary for the purpose of regularisation and permanent absorption and to sanction grant-in-aid by the Government. The Government may not be in a position to sanction grant-in-aid if any management appoints teacher who did not possess the requisite educational qualifications. Educational qualifications are prescribed by the University Grant Commission and binding on all the Universities.

13. In the present case, the 1st respondent participated in the selection of the year 2007-2008 and not succeeded. She was allowed to continue as Guest Lecturer on temporary basis. She was receiving consolidated pay. Having not succeeded in the selection process, she filed the writ petition in the year 2014. Her continuance after the year 2014 is



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based on the interim order passed in the writ petition. Thus, her litigious continuance cannot be taken into consideration for the purpose of granting the relief of regularisation and permanent absorption.

14. Let us now consider whether the 1st respondent is qualified and she possess the requisite qualification.

15. The appellants would contend that the requisite qualification as per the regulations are Good Academic record with at least 55% of marks or equivalent grade of B in the 7 point scale with latter grades O, A, B, C, D, E and F at the Master's degree level in the relevant subject from an Indian University, or, equivalent a degree, from a foreign university. Besides fulfilling the above qualifications, candidates should have cleared the eligibility test (NET) for lecturers conducted by the UGC, CSIR or similar test accredited by the UGC. NET shall remain the compulsory requirement for appointment as Lecturer even for candidates having Ph.D.degree. However, the candidates who have completed M.Phil degree or have submitted Ph.D. Thesis in the concerned subject upto to 31st December, 1993, are exempted from appearing in the NET examination.

16. The 1st respondent possess the educational qualification of M.Sc.



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Applied Biology (1995), M.Phil, Futuristic Studies, Thesis, Air and Noise Pollution in Coimbatore City (1997), Ph.D. Applied Biology, Zoology (interdisciplinary) (2014), SET, Life Science (2017).

17. Learned counsel for the appellant would mainly contend that the equivalent certificate issued in G.O.Ms.No.72 dated 30.04.2013 has no application in respect of the present case. Even as per the said Government Order, the 1st respondent did not possess M.Sc., Applied Biology (Zoology). Therefore, the said G.O. is of no avail to the 1st respondent. As per G.O.Ms.No.66, Higher Education Department dated 24.04.2019, which was issued subsequently by the Government, pursuant to the resolution passed in 60th Equivalence Committee Meeting, Agenda No.62, reads as under:

Agenda subjects	Recommendation of the Committee
... Agenda No.62: Public Services-Educational Qualification-consideration of M.Sc. Applied Biology awarded by Gandhigram Rural Institute (Deemed to be University) as to whether equivalent to M.Sc. Zoology for the purpose of employment in public services	Not equivalent

Therefore, as per Government Order, the 1st respondent did not possess requisite qualification for the post of Assistant Professor (Zoology) and thus,



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her case was not considered along with other similarly placed persons when the process of regularisation was undertaken by the Government.

18. Learned counsel for the appellant would contend that other lecturers who were appointed on consolidated pay in the year 2005 were regularised since they possessed the requisite educational qualification and complied with the other criteria. Learned counsel for the 1st respondent would submit that 1 or 2 candidates did not possess the qualification. This Court is of the considered view that illegality in the matter of considering ineligible candidate who did not possess the requisite educational qualification would not be a ground to claim equality.

19. It is not in dispute that ban for appointments was in force between the years 2001-2006. The 1st respondent would claim appointment from the year 2006. The Court cannot consider such claims to suit the convenience of the employee, who was appointed in violation of the recruitment rules. Once, the initial appointment is found to be not in accordance with the recruitment rules and the appointee did not possess the requisite educational qualifications for appointment to the post of Assistant Professor, the High Court cannot exercise its power of judicial review granting the benefit of regularisation and permanent absorption, which will result in



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wrong precedent. Further, other similarly unqualified persons may also claim regularisation which will result in unsettling the recruitment rules and the educational qualifications prescribed by the University Grant Commission.

20. Not possessing the requisite qualifications for appointment cannot be construed as condonable. That apart, any misplaced sympathy or lenient view would result in infringing the rights of the qualified candidates, who are all aspiring to secure public employment through Open Competitive process. Lakh and lakh of youth of our great nation are longing to secure public employment by participating in the competitive process. Therefore, regularisation and permanent absorption of illegal and irregular appointments would infringe their rights which would result in an unconstitutionality. Therefore, the facts of the case would be sufficient that the benefit of regularisation or permanent absorption cannot be granted by the Courts by dispensing with the requisite educational qualification for appointment to the post of Assistant Professor (Zoology) in the appellant College. However, the 1st respondent has served long years as Guest Lecturer on temporary basis. No doubt from 2014 onwards, she is continuing based on the interim order. Therefore, if the post of Guest Lecturer of temporary post is available in the College, she may be



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accommodated in the said position till she attains the age of superannuation. This alone is the only concession which can be extended by this Court.

21. Learned counsel for the appellant would submit that subsequently, the 1st respondent acquired Ph.D. in Applied Biology(Zoology) in 2014 and she completed State Eligibility Test(SET) in the subject of Life Science in the year 2017. If at all the 1st respondent acquired the requisite educational qualification in the year 2017 for appointment to the post of Assistant Professor (Zoology), she has to participate in the process of selection for appointment. However, subsequent acquisition of degree at later point of time in the year 2017 would not confer any right to seek regularisation or permanent absorption with effect from 2002 or from the year 2006 as claimed by the 1st respondent.

22. As far as the writ order is concerned, a direction was issued to the Secretary to Government Higher Education Department, who is not a party to the writ proceedings. That apart, the writ Court directed the College Management to regularise the service of the 1st respondent with retrospective effect, which is not in consonance with the principles of law.



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23. In view of the discussion made above, this Court has arrived at an irresistible conclusion that the writ order impugned cannot be sustained. Accordingly, the writ order dated 06.07.2021 passed in W.P.No.308 of 2014 is set aside and the Writ Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) (S.S.,J.)
12.01.2026

vsi

Index:Yes/No

Neutral citation

To

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Hindu Religious and Charitable Endowments Department,
Fort St.George, Chennai – 600 009.
2. The Commissioner,
Hindu Religious and Charitable Endowments Department,
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**S.M.SUBRAMANIAM,J.
and
S.SOUNTHAR,J.**

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