
(2013) 03 MAD CK 0010
In the Madras High Court
Case No : W.A. No's. 27 to 30 of 2011

C. Rajagopal

APPELLANT

Vs

Director of Collegiate Education and Others

RESPONDENT

Date of Decision : 22-03-2013

Acts Referred:

Citation : (2013) 4 MLJ 129

Hon'ble Judges : R. Banumathi, J;K. Ravichandrabaabu, J

Bench : Division Bench

Advocate : R. Veeramani, for the Appellant; S. Ramaswamy, Along with Ms. N. Kavitha, P. Sanjay Gandhi, Additional Government Pleader and L. Ajay Ghose, for the Respondent

Final Decision : Dismissed

Judgement

K. Ravichandrabaabu, JJ.—All the four writ appeals arise against the common order passed by the learned single Judge in the main writ

petitions. The appellant in all these appeals is one and the same. He is the writ petitioner in W.P. Nos. 19908 of 2001 and 23461 of 2001 and the

5th and 4th respondent in W.P. Nos. 24577 of 2007 and 6862 of 2010, respectively. The challenge made in W.P. No. 19908 of 2001 is against

the order of the second respondent University, wherein and whereby the qualification approval sought for to the appellant to the post of Lecturer in

Computer Science at the third respondent College, was rejected.

2. The appellant as writ petitioner in W.P. No. 23461 of 2001 also challenged the proceedings of the Joint Director of Collegiate Education,

Coimbatore, granting permission for the bifurcation of the departments into Mathematics and Computer Science from the earlier combined

department of Computer Science.

3. The other two writ petitions were filed by the first respondent in W.A. Nos. 29 and 30 of 2011. In W.P. No. 24577 of 2007, the challenge was

against the proceedings of the Director of Collegiate Education dated 19.4.2007 whereby the bifurcation of the departments was kept in

abeyance. In W.P. No. 6862 of 2010, the challenge was against the proceedings of the College dated 25.3.2010, whereby the appellant herein

was appointed as Chairman, Board of Studies in Computer Science by keeping the appointment of the first respondent in the very same post in

abeyance.

4. The appellant seeks qualification approval to the post of Lecturer in Computer Science from the respondent University. As the same was

rejected on 3.7.2001, he had filed the first writ petition in W.P. No. 19908 of 2001 challenging the said rejection order. The other writ petitions

filed one by the appellant and other two by the first respondent are arising out of a consequential cause of action in pursuant to the said order of the

University dated 3.7.2001. Hence, the main issue to be decided between the parties is raised in W.P. No. 19908 of 2001 and as such the result of

the said writ petition will certainly have a bearing on the other three writ petitions. The learned single Judge by pointing out the above said position

proceeded to decide the writ petition in W.P. No. 19908 of 2001 first and accordingly having found that the said writ petition has no merits, the

learned single Judge dismissed the same. Consequently, he also dismissed the writ petition in W.P. No. 23461 of 2001 and allowed W.P. Nos.

24577 of 2007 and 6862 of 2010.

5. Both sides agree that the issue involved in W.P. No. 19908 of 2001 is the core issue and if it is decided then the same will have bearing on

other writ petitions. Considering the said nature of the submission, as well as by finding that a decision made in W.A. No. 27 of 2011 will have

bearing on other writ appeals, we proceed to decide W.A. No. 27 of 2011 first, and hence while discussing the facts hereunder, we refer to the

parties in W.A. No. 27 of 2011 in their array therein.

6. The case of the appellant is that he is fully qualified to the post of Lecturer in Computer Science and he was also appointed in the said post by

the third respondent College. However, when the College sought for qualification approval from the second respondent University to the post of

Lecturer in Computer Science, the same was rejected. On the other hand, the case of the University is that the petitioner was appointed only as a

Lecturer in Mathematics and the University had also granted qualification approval to the said post. However, when the College sought for

qualification approval to the petitioner, as a lecturer in Computer Science, the same was not supported by any appointment order issued by the

third respondent College. Therefore, even though the appellant, based on his academic qualification, can be considered as possessing necessary

qualification for appointment as Lecturer in Computer Science with effect from December 1995 on obtaining of M. Phil., qualification, such

qualification approval cannot be granted in the absence of any appointment order issued by the College in favour of the appellant.

7. The third respondent College, though represented by a learned counsel before the learned single Judge, has chosen not to appear before this

Court either in person or through counsel. We are informed by the learned counsel who appeared before the learned single Judge that he had given

change of vakalat already. Therefore, the name of the College is printed in the cause list as no other counsel had filed change of vakalat so far.

However, the stand of the College before the learned single Judge is that the appellant is senior to the first respondent in other two writ appeals.

The appointment was made for the post of Lecturer in the combined department of Maths and Computer Science and therefore an approval was

sought for to the petitioner. It appears that the learned counsel also submitted that appropriate orders may be passed based on the pleadings of the

respective parties.

8. The learned single Judge found that the appellant was appointed only as Assistant Professor of Mathematics Department and the University also

through their proceedings dated 7.3.1986 granted qualification approval to the appellant as Assistant Professor of Mathematics. The learned Judge

also found that the first respondent in other writ appeals was appointed as an Assistant Professor of Computer Science. The learned Judge further

pointed out that merely because the department of Computer Science and Mathematics were clubbed together, it cannot be a ground to hold that

the appointments in both the departments are interchangeable. It is also the finding of the learned single Judge that the appellant cannot claim as a

matter of right that his qualification will have to be approved as a Lecturer in Computer Science, especially, when he was not at all appointed to the said post.

9. The learned Judge also pointed out that as per the University regulation, an individual who desires to obtain qualification approval for another discipline should surrender his previous qualification approval and obtain a letter of appointment from the College, and then only the University will consider the request for qualification approval. Thus, by pointing out the said procedure, the learned Judge held that the petitioner having not been appointed in the Computer Science Department and having not surrendered the earlier qualification approval to the post of Lecture in Mathematics, cannot seek the relief and consequently dismissed the writ petition.

10. Mr. R. Veeramani, learned counsel appearing for the appellant in all these appeals submitted that the appellant was appointed as Lecturer in Mathematics Department and qualification was also approved by the University to the said post. However, the appellant was also appointed as Lecturer in the Computer Science Department subsequently by the very same College and the same is evident from the proceedings of the Secretary and Correspondent of the third respondent College dated 16.5.2002. Therefore, according to the learned counsel the appellant is entitled to get his qualification approved to the post of Lecturer in Computer Science.

11. Mr. S. Ramasamy, learned senior counsel appearing for the second respondent University would submit that the appellant was appointed by the third respondent College in the Mathematics Department only and he was not appointed in the Computer Science Department and no such appointment order was ever communicated to the university. In so far as the proceedings of the Secretary of the College dated 16.5.2002 relied on by the appellant is concerned, the learned senior counsel submitted that the said proceedings issued subsequent to the filing of the writ petition in W.P. No. 19908 of 2001 cannot be taken into account as it is an afterthought, that too after the rejection order passed by the University impugned in the said writ petition. At any event, the appointment is to be made only by the Governing Board of the College and not by the Secretary and Correspondent in his individual capacity. Therefore, the learned senior counsel

submitted that the said proceedings dated 16.5.2002 cannot be taken into account and the same is to be rejected as an after thought.

12. In so far as the other writ appeals are concerned, Mr. L. Ajay Ghosh, learned counsel appearing for the first respondent in W.A. Nos. 29 and

30 of 2011, submitted that the said respondent is fully qualified to the post of Lecturer in Computer Science Department and he was in fact

appointed in the said post by the College. Therefore, the appellant herein cannot equate himself with that respondent, especially, when the

respective appointments were made in respect of two different departments.

13. Heard the learned counsel appearing for either side.

14. The core issue to be decided in this case is as to whether the appellant was first of all appointed as Assistant Professor of Computer Science

Department and if so, whether the University is justified in passing the rejection order.

15. The third respondent College through their proceedings dated 31.10.1985 appointed the appellant as Assistant Professor of Mathematics

subject to approval of the Registrar of Bharathiar University and the Deputy Director of Collegiate Education. The said appointment order placed

before us in the typed set of papers, was perused. A reading of the said order would only show that the appellant was appointed as Assistant

Professor of Mathematics and not as Assistant Professor of Computer Science. The University also granted qualification approval to the appellant

to the said post through their proceedings dated 7.3.1986. A perusal of the said proceedings of the University would further show that the same

came to be issued in pursuant to the a letter dated 27.2.1986 written by the third respondent College. Thus, it is manifestly clear that after

appointing the appellant on 31.10.1985 the College sought for qualification approval through their letter dated 27.2.1986 and the same was also

granted by the University on 7.3.1986. When that being the position, we fail to understand as to how the appellant is seeking qualification approval

for the post of Lecturer in Computer Science especially in the absence of any appointment order to the said post. No doubt, a proceedings of the

College dated 1.11.1985 is placed before us by the appellant wherein they addressed the University informing that the College had proposed to

appoint the appellant as Assistant Professor of Computer Science and

consequently sought for the qualification approval to the said post.

16. Here again, it is not clear as to why the College has to address the University on the very next day of the issuance of the appointment order as

Assistant Professor of Mathematics, seeking for qualification approval to the post of Assistant Professor of Computer Science. Whatever may be

the reason, the fact remains that in the subsequent letter dated 27.2.1986 which is referred to in the qualification approval order dated 7.3.1986, it

appears that the College has sought for qualification approval only to the post of Assistant Professor of Mathematics. Therefore, even though the

College proposed to appoint the appellant in the Computer Science Department as could be seen from the proceedings dated 1.11.1985, it was

not followed by issuance of any appointment order later and therefore the fact remains that the appellant was never appointed as Lecturer in the

Computer Science department at any point of time. Though we specifically asked the learned counsel for the appellant to place any other

appointment order issued in favour of the appellant by the College, the learned counsel pleaded inability as the appellant was not possessed with

any such appointment order. However, he strongly relied on two proceedings of the College issued on 3.2.2000 and 16.5.2002 to substantiate his

contention that the appellant was appointed in the Computer Science Department. We have perused both the proceedings placed in the typed set

of papers. Insofar as the certificate dated 3.2.2000 is concerned, the Secretary and Correspondent of the third respondent College certified that

the appellant was appointed as Assistant Professor of Maths in the Department of Maths and Computer Science on 1.11.1985 for the creation of

Computer Science Department and right from his appointment, he has been taking Computer Science classes. While we perused the other

proceedings dated 16.5.2002, issued by the very same Secretary and Correspondent, it only shows that the appellant was appointed as Assistant

Professor of Computer Science with effect from 1.11.1985 subject to approval of the second respondent University.

17. First of all, the factual contents of both the proceedings issued by one and the same person contradicts with each other. While the proceedings

dated 3.2.2000 refers the appointment of the appellant as Assistant Professor of Maths, the other proceedings dated 16.5.2002 refers the

appointment as Assistant Professor of Computer Science. Thus, it shows that facts are either being tried to be misled or suppressed. When an

appointment order admittedly issued on 31.10.1985 refers the appointment as the one made in the Maths Department, these proceedings issued

after 17 and 15 years respectively that too with contradictory statements, have to be either ignored or brushed aside only as an after thought. As

rightly pointed out by the learned senior counsel appearing for the University, the other proceedings dated 16.5.2002 issued subsequent to the

impugned order passed by the University and filing of the writ petition challenging the same, is undoubtedly an after thought approach made by the

College obviously to help the appellant some way or other. Therefore, we are not accepting both the proceedings dated 3.2.2000 and 16.5.2002.

18. When we perused the impugned order, we could see that the University, no doubt, pointed out that the appellant, having obtained M. Phil

qualification in December 1995, may be considered as possessing the necessary qualification for appointment as Lecturer in Computer Science

with effect from December 1995 or from the date of appointing him as Lecturer in Computer Science, whichever is later. This observation of the

University in the impugned order only shows that the appellant is entitled to be appointed as Lecturer in Computer Science with effect from

December 1995. Thus, it is clear that the appellant can seek qualification approval to the post of Lecturer in Computer Science only when he is

appointed to the said post by the College. Here again, this can happen only on two eventualities viz., (i) the appellant should first get appointed in

the said post and (ii) he should surrender the earlier qualification granted by the University. This requirement is evident from the proceedings of the

Registrar of the second respondent University dated 3.6.2002. Admittedly, the said proceedings is not questioned or challenged by the appellant.

While that being the position, the appellant cannot seek the qualification approval for Computer Science. Even though the University sought for

furnishing of the appointment order on several occasions, the fact remains that the College did not furnish the same. Therefore, the University after

recording the facts that the appellant was appointed only as a Lecturer in Mathematics and the qualification approval to the said post was also

granted by the University on 7.3.1986 and he was also awarded senior scale with effect from 1.11.1993 and selection grade with effect from

27.7.1998 in the post of Lecturer in Maths, rejected the request for qualification approval to the post of Computer Science. We find no irregularity

or infirmity in the order passed by the University, which has been rightly upheld by the learned single Judge.

19. As rightly pointed out by the learned senior counsel for the University, a person who seeks qualification approval should first get appointed in

the said post. The learned senior counsel placed the Act and Statutes of Bharathiar University, in which Clause 10 of Chapter 14 reads as follows:

10. Appointment of Teaching Staff: Appointments to the teaching staff of a college shall be made only by a Selection Committee in which the

Principal shall be a member. The Principal shall be appointed at a meeting of the College Committee in which the University representative shall be

present. All appointments shall be reported to the University, and shall satisfy the qualifications laid down by the University.

20. A perusal of the above referred Clause 10 shows that the College should report all appointments of teaching staff to the University and seek

qualification approval from the University. Here in this case, there is no valid and acceptable material placed before us indicating that the appellant

was appointed in the post of Lecturer in Computer Science at any point of time. Even the proceedings dated 1.11.1985 of the College relied on by

the appellant only shows that there was a proposal to appoint the appellant to the post of Assistant Professor of Computer Science; but whether

the said proposal was subsequently materialised or not is a fact which has not been established before this Court by placing any appointment

order. On the contrary the very qualification approval order issued by the University referred to the letter dated 27.2.1986 of the College and

subsequently granted qualification approval to the post of Lecturer in Mathematics only. Therefore, the appellant cannot seek any relief as prayed

for in W.P. No. 19908 of 2011 and the learned Judge has rightly dismissed the same.

21. In fact, we granted opportunity to the College as well as the University to file counter affidavit before this Court at the time of hearing the writ

appeals as they have not chosen to file counter affidavit in W.P. No. 19908 of 2001 before the learned single Judge. The College remained absent

and has not filed any counter affidavit. On the other hand, the University filed a counter affidavit and contended that the College, though sought for

qualification approval for the appellant in respect of Computer Science, has not produced any appointment order as sought for by the University till this day. It is the categorical assertion of the University at paragraph 9 of its counter affidavit that even after more than 11 years from the date of the rejection order, the third respondent College has not till date produced or forwarded any appointment order in favour of the appellant in respect of Computer Science. Such being the categorical assertion and when the same has not been rebutted either by the College or by the appellant by placing any other convincing material before this Court, we are of the firm view that the order passed by the learned single Judge does not warrant any interference and consequently the same is liable to be confirmed. As we are in full agreement with the order passed by the learned single Judge in respect of W.P. No. 19908 of 2001, and as the other writ petitions are also consequential in nature, we find that the order passed by the learned single Judge in the other writ petitions are also perfectly in order and does not warrant any interference. Accordingly, all the writ appeals are dismissed. No costs.