

(2003) 10 MAD CK 0067

In the Madras High Court

Case No : Writ Petition No. 14536 of 1996

Dr. G. Sakkaravel

APPELLANT

Vs

The Commissioner, HR and CE Administration Dept. and
Chairman-College Committee, Poompuhar College and Others

RESPONDENT

Date of Decision : 17-10-2003

Acts Referred:

Tamil Nadu Private Colleges (Regulation) Act, 1976 — Section 16
Tamil Nadu Private Colleges (Regulation) Rules, 1976 — Rule 11(3), 11(4)

Citation : (2003) 10 MAD CK 0067

Hon'ble Judges : D. Murugesan, J

Bench : Single Bench

Advocate : J. Narayanamurthy, for the Appellant; G. Sukumaran, Special Govt. Pleader for R1, R. Rajasekaran, Government Advocate for R2, S. Hemalatha, for R3 and D. Hariparanthaman, for R4, for the Respondent

Judgement

D. Murugesan, J.—The petitioner is a holder of M.Com., M.Phil. Degrees, Ph.D. and Diploma in Law from Annamalai and Bharathidasan

Universities. According to the petitioner, he is the senior most Professor working in the third respondent college, managed by the Hindu Religious

and Charitable Endowments Department. When a vacancy to the post of Principal arose in the year 1995, the respondents instead of following

Rule 11(4) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976 and Section 16 of the Tamil Nadu Private Colleges (Regulation) Act,

1976 (hereinafter referred to as the ""Act"" and ""Rules""), appointed the petitioner only as Principal Incharge. The request of the petitioner for

appointing him as the Principal, as he was the senior most Professor and he was fully qualified for the said post, was not favourably considered.

Hence, the petitioner has approached this Court for a direction to the third

respondent college to promote and appoint him as the Principal.

2. I have heard Mr. J.Narayanamurthy, learned counsel for the petitioner, Mr. G.Sukumaran, learned Special Government Pleader for the first

respondent, Mr. R.Rajasekaran, learned Government Advocate for the second respondent, Mrs. S. Hemalatha, learned counsel for the third

respondent and Mr. D. Hariparanthaman, learned counsel for the fourth respondent.

3. Considering the relief sought in this writ petition, it is settled law that this Court cannot direct the respondents to promote the petitioner as such,

as the appointment of a person to the post of Principal shall be considered by the college committee with reference to Rules 11(3) and 11(4) of the

Rules which deals with promotions. Rules 11(3) and 11(4) of the Rules reads as under:-

11(3): In the case of regular vacancies, a fully qualified candidate shall be appointed only on a regular basis. However, in a temporary vacancy

arising on account of leave, deputation for training or suspension etc., a qualified candidate may be appointed temporarily for a specified period

provided that such teachers' services shall not be terminated before the expiry of the said period.

11(4)(i): Promotions in respect of teaching staff shall be made on grounds of merit and ability, seniority being considered only where merit and

ability are approximately equal, and in respect of non-teaching staff promotions shall be made on seniority basis, provided other conditions

regarding qualification are satisfied.

As per Rule 11(3), promotion and appointment in regular vacancy shall be filled up by a fully qualified candidate. As per Rule 11(4)(i) introduced

in G.O.Ms. No. 60, Education (RD) dated 20.1.86, promotions in respect of teaching staff shall be made on grounds of merit and ability, seniority

being considered only where merit and ability are approximately equal. While that being so, it is only for the college committee to consider the

claim of all the Professors who are qualified and eligible to be appointed as Principal and select one among them on the basis of merit and ability.

In the event the college committee is of the opinion that merit and ability are approximately equal, then the question of seniority would come. Even

before such a procedure is adopted and the promotion is made, this Court cannot

issue directions that the petitioner alone should be promoted to the post of Principal. Hence, the writ petition is disposed of by directing the third respondent to consider all the eligible and qualified Professors working in the third respondent college by considering their claims for appointment to the post of Principal strictly in accordance with the provisions of the Act and the Rules more particularly, as per Rules 11(3) and 11(4)(i) of the Rules.

4. It is brought to my notice that the petitioner is working as Principal Incharge from the year 1995 and the third respondent college is functioning without there being a regular Principal appointed. An academic institution cannot run without there being a regular Principal as it will not be in the interest of the students apart from the interest of administration of the college. In view of the above, the college committee of the third respondent college is directed to complete the process of selection and appointment of a Principal to the existing regular vacancy on or before 21.11.2003. It is made clear that the relevant date for the purpose of consideration of the candidates for the post of Principal shall be the date on which the committee considers the application of all the eligible and qualified candidates.

6. The writ petition is disposed of with the above directions. No costs. Consequently, W.P.M.P. No. 18090 of 1997 is closed.