
(2012) 11 MAD CK 0309

In the Madras High Court

Case No : Writ Petition No. 4799 of 2011

P. Kasirajan

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 08-11-2012

Acts Referred:

Citation : (2013) 2 LLN 195

Hon'ble Judges : N. Kirubakaran, J

Bench : Single Bench

Advocate : R. Singgaravelan, for the Appellant; Sy. Masood for R1 and R5, Mr. P.R. Gopinathan for R2 and Mr. R. Viduthalai, for Mrs. A.V. Bharathy for R3, R4 and R6, for the Respondent

Final Decision : Allowed

Judgement

Honourable Mr. Justice N. Kirubakaran

1. The petitioner has challenged the orders passed by the 5th respondent dated 6.5.2010 and 7.6.2010 and the order of the 4th respondent dated 21.5.2010 by which the 6th respondent was permanently absorbed in the 4th respondent University in the post of Registrar. The case of the petitioner is that, he is a senior most eligible candidate to be considered for the post of Registrar of the third respondent University. He is qualified M.E Electronics with 17 years of service in the 3rd respondent University in the post of Technical Officer Grade-II. The post of Registrar is required to be filled up through direct recruitment as per the order of the Government of India dated 31.12.2008 and not by any other modes. Though there are Central Government guidelines for dealing with the appointment by way of deputation, there is no provisions in the procedure of University Act 2005 for appointment by way of deputation.

2. The facts, leading to the case are as follows:

For appointment of Registrar post, advertisement was made in the year 2004 for direct recruitment in the scale of pay of Rs. 16400-Rs. 22400/-. The minimum

qualification prescribed for the post was that a Master degree with at least 55% of marks or its equivalent grade of "B" in the UGC seven point scale. At least 15 years of experience as Lecturer (Senior scale), Lecturer with 8 years in Reader Grade along with experience in educational administration(or) Comparable experience in research establishment and /or other institution of higher education (or) 15 years of administrative experience of which 8 years as Deputy Registrar or equivalent post. As per advertisement, the tenure of the post of Registrar was five years and the age of retirement was 62 years.

3. The 6th respondent who was working as Director (ESTT) II as National Technical Research Organisation, was appointed on 17.10.2005 and joined duty on 19.10.2005. The said appointment is based on the deputation basis. The tenure came to an end on 19.4.2010 and he was subsequently absorbed on 20.4.2010 by renewal till he attains 62 years on 28.2.2013. The aforesaid appointment/absorption and the resolution of the third respondent University, which enable the 6th respondent to get absorbed in the third respondent university, is being challenged before this Court.

4. Mr. R. Singaravelan, learned counsel appearing for the petitioner would submit the following:

a) The advertisement speaks about appointment direct recruitment and not by deputation. There is no provision in the Pondicherry University statue for appointment through deputation. Therefore, the initial appointment of the 6th respondent dated 17.10.2005 itself is illegal;

b) For the post of Registrar in the University as per advertisement, candidates should have 15 years of experience as Lecturer with experience and educational qualification. Whereas, the work of the sixth respondent who worked in the National Research Organisation as Director is only administrative in nature and therefore, the sixth respondent does not possess the minimum qualification.

c) When the sixth respondent was absorbed, there was no advertisement inviting applications from eligible candidates and the sixth respondent alone was considered for the rest of the period without offering chance to other eligible candidates. Therefore, the said absorption is illegal.

d) The respondents 3 to 5 with mala fide intention amended the rules so as to enable the sixth respondent to retain the post of Registrar till he attains the age of 62.

e) The advertisement did not speak about the deputation in 2005 and the deputation Clause did not find place in the advertisement and therefore the sixth respondent cannot be appointed initially on deputation and later absorbed.

f) Even assuming without admitting that the third respondent has authority in law to switch over to the mode of deputation and there is a provision authorising him, equal opportunity should have been given to all the eligible candidates in all the Central Government Departments including the 6th respondents department

to take part in the selection by deputation. But admittedly such an opportunity was not given.

g) When the absorption was not available at the time of initial appointment of the sixth respondent, there could not be absorption in 2010 and it was done based on the resolution dated 9.3.2007, amending Section 4(i)(A) of University Act.

h) Amendment introducing the absorption was made on 20.03.2007 which is very well after the advertisement dated 14.9.2004, with a view to absorb the 6th respondent and hence the absorption of the 6th respondent is illegal.

i) Even though the petitioner did not apply for the initial appointment in 2005, he is well qualified initially as well as at the time of absorption of the 6th respondent as the petitioner was serving as Technical Officer which is equal to Reader.

j) There is no latches on the part of the petitioner as the petitioner only questioned the absorption of the 6th respondent dated 19.4.2010 and for which the concurrence of the parent department was given only on 06.05.2010.

k) When the sixth respondent attained superannuation on 13.2.2010, his service could not have been extended beyond that period. Whereas, the 6th respondent's service period would be over only in 2013. Therefore, the absorption was done contrary to the provisions, which were in existence in 2010 and there cannot be any retrospective absorption. The period of deputation was over on 19.4.2010 and the concurrence for absorption was given only on 06.5.2010 by parent department of the 6th respondent. Thus the absorption made on 19.04.2010 is illegal as on 19.04.2010 as there was no concurrence of his parent department.

l) As per the recruitment rule for absorption UPSC consultation is necessary. The minimum age for deputation for absorption is 56 years. Whereas, the 6th respondent was aged about 59 = years in 2010. Therefore, the appointment on deputation in 2005 and absorption in 2010 are contrary to the rules and the same is illegal.

5. Mr. R. Singaravelan relied upon the following judgements:

1) Minor A. Peeriakaruppan and Sobha Joseph Vs. State of Tamil Nadu and Others,

2) Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others,

3) Miss. Nishi Maghu and Others Vs. State of Jammu and Kashmir and Others,

4) Upen Chandra Gogoi Vs. State of Assam and Others,

5) Dr. Bhanu Prasad Panda Vs. The Chancellor, Sambalpur University and Others,

6) P. Mohanan Pillai Vs. State of Kerala and Others,

- 7) Collector of Central Excise, Baroda Vs. Ojas Corporation,
- 8) Bimlesh Tanwar Vs. State of Haryana and Others,
- 9) The Deputy Inspector General of Police and The Director General of Police Vs. V. Rani,
- 10) Pramod Kumar Vs. U.P. Secondary Education Services Commission and Others,
- 11) State of Madhya Pradesh vs. Mohd. Ibrahim (2009) 15 SCC 214
- 12) Dr. M.S. Patil Vs. Gulbarga University and Others,

In fine he submitted that the appointment of 6th respondent should be set aside and the writ petition is to be allowed.

6. Mr. R. Viduthalai, learned Senior Counsel appearing for the respondents 3, 4 and 6 made the following submissions:

a) Petitioner was not one of the 75 applicants applied for the post of Registrar in 2005 and therefore, he has got neither qualification nor locus standi to question the 6th respondent's appointment.

b) In service law Public Interest Litigation is not maintainable, as the petitioner's writ petition is in the nature of public interest litigation. Therefore it is liable to be dismissed.

c) The appointment of sixth respondent to the post of Registrar is by direct recruitment and not by way of deputation.

d) Renewal of tenure of the sixth respondent as Registrar is in accordance with rule 4(i)(A) of the Ordinance and it is based on relevant records and materials.

e) The formality of deputation and absorption are inter-se arrangement made between the Central Government and the third respondent University.

f) The appointment on absorption of the 6th respondent is according to law and as per rules, which are in existence.

g) The writ petition is liable to be dismissed on the ground of laches as the writ petitioner materially challenges the initial appointment of 6th respondent. He relied upon the judgement of the Hon"ble Supreme Court reported in R.K. Jain Vs. Union of India and Others,

h) Following the procedure, the 6th respondent was selected and appointed by direct recruitment. After appointment by direct recruitment, the appointments were finalised between the government and Pondicherry University. Therefore, it is clear that the 6th respondent was appointed by direct recruitment and not by deputation. The parent department relieved the petitioner on deputation and it does not mean that the sixth respondent was not appointed by way of direct recruitment. He relied upon Jonshan Bregesh Gupta and others Cham Kendra

Vidhalaya reported in 2006 (2) JCR 46.

i) The 3rd respondent by resolution dated 1.4.2010 resolved to renew the terms of appointment of the 6th respondent as Registrar for a further period up to the date of superannuation or attaining the age of 62 on absorption basis and the said decision was taken as per the provisions contained in statute 19(i) note (3) and rule 4(i)A of Ordinance (Administration) governing the employment and the terms and conditions of service of the Registrar under the Statute u/s 4(2).

j) As the third respondent sought his absorption, the 6th respondent gave his willingness for absorption and his parent department also approved his absorption. As per note 3 of the statute 19 Registrars can be appointed for five years which period can be renewed in similar terms. Thus the 6th respondent is eligible for similar terms with effect from 19.12.2010 till he completes 62 years on 22.8.2013. Hence, there is no violation in the sixth respondent's absorption.

k) The absorption of the 6th respondent was made because of his remarkable performance and his contribution in the growth and development of the third respondent university during his initial tenure.

l) Technical resignation is provided in the rules which would enable the government servants to apply for the post in the other departments through proper channel and for providing the benefit by transfer of past service of the servant. There is nothing irregular in the case of technical resignation and it is only a technical formality as per the Government of India Rules facilitating the transfer of service and the benefits in case of absorption of the serving Government employee from one job to another in the Government or Government autonomous Organisation. Therefore, the 5th respondent's order dated 17.6.2010 is lawful and is based on Government rules and as per the provisions contained in the University Act and statute and Ordinance. In view of that only past services and benefits of the 6th respondent were transferred to Pondicherry University as per rules. In the case of deputation, the benefits are paid by the borrowing department to the parent department. Whereas, in case of absorption, initial benefits for the period prior to the date of absorption are to be paid by the parent department to the borrowing department. The similar issue has been dealt with by a Division Bench of Delhi High Court in Rameshchand vs. Union of India.

m) The petitioner is guilty of laches as he failed to challenge the initial appointment made in 2005 and therefore, he cannot maintain this writ petition. He relied upon a Division Bench judgment of this Court in Soma Velandi Vs. Dr. Arthony Elahgovan, The Chairman, Railway Board and The Sr. Deputy General Manager Southern Railway Headquarters, and The Secretary to Government, Chennai-9 and others -Vs-. A. Easupra Murthi and others reported in 2011 (1) CWC 392. In fine, he submitted that the petitioner neither has locus standi nor a aggrieved person. He is only a stranger, who is guilty of laches.

7. Heard the parties and perused the records carefully.

8. The post of Registrar of the third respondent University was advertised in the year 2004 under Direct Recruitment. The said fact is admitted in paragraph "5" of the counter affidavit filed by the respondents 3 and 4. A perusal of the notification indicates that the recruitment is by direct recruitment. The minimum qualification for the said post is as follows:

REGISTRAR: A Master's degree with at least 55% of the marks or its equivalent grade of B in the UGC seven point scale. Atleast 15 years of experience as Lecturer (Senior Scale) Lecturer with 8 years in Reader's grade along with experience in Educational Administration (OR) Comparable experience in research establishment and/or other institutions of higher education (OR) 15 years of administrative experience of which 8 years as Deputy Registrar or an equivalent post.

Taking into consideration of the above qualifications the issues are dealt with hereunder:

I. ELIGIBILITY TO THE POST:

9. It is the contention of the petitioner that the sixth respondent is not qualified for appointment to the post of Registrar as he did not hold any post as contemplated in advertisement. The minimum qualifications prescribed in the advertisement specifically states that 15 years of experience as Lecturers. The experience in educational administration or comparable experience in research establishment or other Institution or higher education or 15 years of administrative experience of which 8 years of Deputy Registrar or equivalent posts is basic requirement. The sixth respondent neither served as Deputy Registrar or equivalent posts in any University nor held any of the above mentioned post.

10. Moreover, the sixth respondent was a Director in National Technical Research Organisation which is not connected with teaching profession or teaching institution. The third respondent as educational University is conducting courses and imparting education. Therefore, the teaching experience is essential and necessary. The sixth respondent only served in the first respondent which is not connected to teaching profession. In view of that, the sixth respondent is not qualified to the post of Registrar and this Court accepts the contention of the petitioner.

11. The sixth respondent is not qualified to be appointed as the Registrar of third respondent University, not only as per the Notification issued by the said University to the post but also as per the terms and conditions prescribed by the UGC in the Appendix III to its notification minimum qualifications for appointment of Teachers in Universities and Colleges and other measures for the maintenance of standards 1998. As per the said notification the minimum qualifications for direct recruitment for the post of Registrar are prescribed as follows:

REGISTRAR AND EQUIVALENT POSTS:

1) A Master's Degree with at least 55% of the marks or its equivalent Grade of "B" in the UGC seven point scale.

2) At least 15 years of experience as Lecturer (Sr. Scale)/Lecturer with eight years in Reader's Grade along with experience in educational administration.

OR

Comparable experience in research establishment and/or other institutions of higher education

OR

15 years of administrative experience of which 8 years as Deputy Registrar or an equivalent post

From the above provision it is clear that the sixth respondent has not satisfied either the qualifications prescribed by the UGC or by the third respondent in its notification dated 14.09.2004. In view of the above, the sixth respondent's initial appointment in 2004 itself is illegal and contrary to rules and notification. It is well settled law that if an order of appointment is bad in its inception, it does not get legalised at a later stage. In *Pramod Kumar -Vs- U.P., Secondary Education Services Commission and others* reported in 2008 (7) SCC 153, the Honourable Apex Court dealt with the issue as to whether a person lacking eligibility can be appointed and if so, whether such irregularity/ illegality can be cured. After examining the provisions of the U.P. Secondary Education Service Commission Rules, 1983 and the U.P. Intermediate Education Act, 1921, Supreme Court categorically held that the lack of eligibility qualifications as per the Rules or Advertisement can not be cured at any stage and the appointment of such a person has to be declared as illegal and not irregular and thus can not be cured. Similar view is taken in *Upen Chandra Gogoi Vs. State of Assam and Others*, , *Dr. M.S. Patil Vs. Gulbarga University and Others*, , *State of Orissa and Another Vs. Mamata Mohanty*,

II. SELECTION BY DIRECT RECRUITMENT:

12. It is the contention of the respondents in paragraphs 5 and 7 of the counter affidavit, that it is the selection by direct recruitment through open advertisement. Para 5 of the 6th respondent counter affidavit and para 7 of the counter affidavit filed by the R3 and R4 reads as follows:

Para "7" & "8" of the Counter affidavit of R3 & R4:

7. I state that it may be seen from the above that the sixth respondent was selected by Direct Recruitment through an open advertisement on all India basis, and while finalizing the terms and conditions of his appointment/service in Pondicherry University, his posting was considered on deputation basis. The 6th respondent fulfilled all the eligibility conditions prescribed for appointment under

the relevant provisions of the Pondicherry University Act and Statutes for the post of Registrar and there is nothing illegal or arbitrary in his appointment.

8. I state that the respondent University vide letter No. PU/VC/2010/1231 dated 21.01.2010 requested the Ministry of Defence (his parent organisation) to extend his deputation upto October 2010 in view of work exigencies. But since their concurrence was not forthcoming, the matter was taken to Executive Council for consideration with the following two options:

The post of the Registrar may be advertised (or)

The tenure of appointment of 6th respondent, the present incumbent may be renewed on absorption basis for a period of five years or till he attains the age of 62, whichever is earlier. He will attain 62 years on 28.02.2013. The Executive Council vide Resolution 2010.103.47, dated 01.04.2010 resolved to renew the terms of appointment of 6th respondent as Registrar for a further period up to the date of his superannuation on attaining the age of 62, on absorption basis.

"Para "5" of the Counter affidavit of R6: I state that as per statute 19(Note-3), the Registrar shall be appointed on tenure basis for a period of 5 years and his tenure may be renewed for similar terms by the Executive Council. I was appointed to the post of Registrar initially on deputation basis as agreed to by my parent department viz. Ministry of Defence, Government of India. My terms was renewed for a further period of two years and 10 months (upto 28.02.2013) on absorption basis, in consultation with my parent department.

When the selection was by direct recruitment, the sixth respondent's posting cannot be considered on deputation basis as contended by the respondents. There is no provision in the advertisement regarding appointment by Deputation. Once, he has been appointed through Direct Recruitment, his appointment cannot be considered on Deputation basis. There is no explanation in the counter affidavit as to why the sixth respondent was considered on Deputation. Hence, it is clear that after issuing notification for appointment to the post of Registrar by direct recruitment, the third respondent switched over to the mode of deputation for the sake of 6th respondent without even issuing fresh advertisement and inviting applications from the eligible candidates from departments for appointment to the post of Registrar by way of deputation. It has been held by the Supreme Court that even temporary or ad hoc appointment cannot be made to a public post without any advertisement extending opportunity to all eligible candidates. The Honourable Apex Court in State of Orissa and Another Vs. Mamata Mohanty, held that it is mandatory on the part of the employer to invite applications from all eligible candidates from the open market by advertising the vacancies in newspapers.

13. By letter dated 17th October 2005, the third respondent University requested the fifth respondent to relieve the sixth respondent initially on deputation as an interim measure only. Even assuming for a moment, that it is on a deputation basis, it cannot be for full five years.

14. That apart, Clause-IV of ordinances governing the administrative matters, speaks about following four methods:

METHODS OF RECRUITMENT:

(i) by direct recruitment or

(ii) by promotion or

(iii) by transfer or

(iv) by deputation from Government Departments and other institutions The recruitment can be either by direct recruitment or by promotion or by transfer or by deputation. Each method is distinct and separate. Therefore, the fourth respondent's appointment cannot be either through direct recruitment or deputation as contended by the respondents 3 to 6. In view of that also, the stand of the respondents that the sixth respondent was appointed by direct recruitment and deputation is liable to be rejected. Though, initially the sixth respondent was appointed by direct recruitment which is not made clear by the respondents as to how the appointment was made on deputation. If such a method is adopted the unilateral conversion from direct recruitment into a deputation, is un-known to law which is nothing but colourable exercise of power and contrary to the advertisement.

15. As per Government of India, O.M. on the maximum age limit for deputation as stated in Chapter-19 of "Swamy's Establishment and Administration", the tenure of the petitioner shall be subject to maximum of three years. In cases where the extension is necessary in public interest, the Administrative Minister may grant extension up to one year and it may extend for the fifth year also only in exceptional circumstances. No such exceptional circumstance has been stated by the respondents. First of all, the sixth respondent's appointment by deputation for five years at the initial stage itself is contrary to Government of India O. Ms. Even, the Ministry of Human Resources Development Department of Higher Education by its letter dated 31.12.2008 specifically stated that the posts of Registrar/Finance Officer/Controller of Examinations shall continue to be filled up through direct recruitment. When such is the position, the sixth respondent's appointment on deputation basis, is contrary to the said letter also.

16. In paragraph "6" of the counter affidavit of the respondents 3 and 4, it is stated that by conducting interview on 17.09.2005, the sixth respondent was selected. It is well settled law that the oral interview alone cannot be basis for selection and appointment for a public post. Even on that score also, the sixth respondent's appointment is not valid.

17. Assuming that the sixth respondent has got qualification to be appointed as Registrar, he cannot be appointed by way of direct recruitment unless he resigned his earlier post. As contended by the respondents 3 to 6, he cannot have lien over his parent Department and carry the experience and service benefits. Due to the deputation for five years, the sixth respondent continues to

have hold over the post in parent Department and the same can not be filled up, affecting various juniors and also prospective candidates which go against the public interest.

ABSORPTION:

18. Initially, the sixth respondent was appointed on 17.10.2005 with effect from 19.10.2005 for a period of five years and the period ended on 19.04.2010. By a letter dated 21.01.2010 the third respondent University requested the fifth respondent to give permission to retain the sixth respondent till October 2010. As per the Government O.M., consultation with the UPSC is necessary in all cases of appointment by absorption to Group "A" and Group "B" posts, with a view to have a uniform approach. Where the absorption has been provided in the Rules subsequent to the selection of a person on Deputation, the Ministries/ Departments should re-circulate the post, clearly indicating Absorption as a mode of recruitment and then only, make a reference to the Commission. Such circulation is also necessary in the other category of cases if the original circular letter calling for nomination for deputation did not clearly mention the possibility of permanent absorption.

19. In view of the celebration of Silver Jubilee function of the University in which the Honourable Prime Minister was likely to visit the University for inauguration of some buildings in October 2010, the third respondent University only sought to retain the sixth respondent till October 2010 only. It is not understandable as to how the resolution was passed in the Executive Council of the sixth respondent on 01.04.2010 and the sixth respondent's appointment was renewed for further period up to the date of his superannuation or attaining the age of "62" years on absorption basis. No reason has been given as to why his tenure for a period of five years was renewed or till he attained the age of "62" years whichever is earlier, especially third respondent sought retention of 6th respondent till October 2010 only.

20. When the University has two options to advertise for the post of Registrar or to extend the tenure of sixth respondent, it should have been judicious and fair to make appointment by making advertisement. Absorption of the sixth respondent for further period of five years without any competition or inviting applications from other candidates is also against the law. Neither reasons nor extraordinary reasons have been stated by the third respondent in its resolution as to why his tenure was extended.

21. Merely because, Pondicherry University Statutes 19(1) Note 3, contemplates renewal for similar terms by the Executive Council, it does not mean that the renewal can be made without any reasons and basis. Though in the counter affidavit in paragraphs "28 and 29 it is stated about the alleged contribution of the sixth respondent to the third respondent for his renewal, no such reason has been given in the minutes of the Executive Council Meeting. Therefore, the alleged contribution of the sixth respondent cannot be pleaded in the counter

affidavit for the first time in the counter. It is well settled law that orders cannot be improved by way of subsequent affidavits as held by the Honourable Supreme Court in Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others, . Therefore, the renewal of the tenure of the sixth respondent is also contrary to the law.

22. The proceedings of the Executive Council is bad for non- application of mind and no material was available for getting renewal of the tenure of the sixth respondent. Moreover, the absorption is unknown to higher posts. By renewal, the third respondent ignored the claims of the prospective applicants who could have applied to the posts in a case of selection by direct recruitment.

23. It is contended by the respondents that the petitioner lacks qualification and he is not one of the 75 applicants applied for the said post. Since the petitioner did not file any application, he has got no locus standi. The respondents relied upon the judgment in R.K. Jain Vs. Union of India and Others, . As on the date of absorption in 2010, the petitioner was qualified as he was selected for appointment to the post of Technical Officer Grade -II in Science Instrumentation Centre and he was then directed to look after the maintenance work of Electrical Wing with immediate effect, apart from his appointment as Head for USIC. The Technical Officers of the USIC are entitled to the same benefits of Pay Scales as available to the Teaching Staff of the University. Therefore, the post of Technical Officer -II is equivalent to the post of Reader. As the Technical Officer -II Posts which the petitioner held is equivalent to the post of Reader, he is entitled to be considered for appointment to the post of Registrar. It is clear that the petitioner has been serving as Technical Officer-II for nearly 17 years and head of the Centre for six years. Therefore, he is also qualified to apply for the post of Registrar even in 2005. Assuming for a moment that he did not have the qualification initially in 2005, he acquired the qualification in 2010. Hence, the petitioner is entitled to challenge the renewal of the appointment of the sixth respondent by absorption done in 2010 and laches cannot be employed against the petitioner. The absorption made in 2010 is definitely a separate cause of action and in that event, there is no laches on the part of the petitioner. Therefore, the judgments cited by the respondents are not applicable to the facts of the case.

24. Though it is contended by the respondents that the formalities of deputation or absorption is inter-se arrangements between the University and the Central Government, the same cannot be in violation of rights other candidates. The respondents cannot renew the term of the sixth respondent by absorption without offering the post in open competition. It can not be contended that the renewal of second term is automatic subject to the satisfaction of the performance. As already stated nothing has been mentioned in the Executive Council Meeting about the subjective satisfaction and only point which was made, is about the visit of the Honourable Prime Minister during Silver Jubilee Celebration. Moreover, the University itself had sought for retention of the sixth

respondent only up to October 2010. When that is the position, the third respondent University for the reasons best known to it, renewed 6th respondent's tenure for a further period of five years or till his superannuation, which is contrary to the law.

25. As held in the judgement of R.K. Jain Vs. Union of India and Others, and in the judgment of Soma Velandi Vs. Dr. Arthony Elahgovan, The Chairman, Railway Board and The Sr. Deputy General Manager Southern Railway Headquarters, even third party has got no locus standi. However, the petitioner cannot be termed as third party as he rightly approached the Court challenging the absorption of the sixth respondent in the year 2010, when he has qualification.

AMENDMENT:-

26. There is already a provision in the Statue regarding the appointment to the post of Registrar. It is argued that by amendment, the third respondent has got power to absorb the sixth respondent. The absorption has been introduced only to help the sixth respondent as a mode of recruitment without authority. For absorption UPSC consultancy is necessary. Where as no such consultation was stated to be done in this case. Therefore, the absorption is illegal.

27. In view of the reasons stated above, it is held by this Court that:

I) a) The sixth respondent has got no qualification to get appointment as Registrar of the third respondent University for lack of qualification in 2004 itself.

b) There was no advertisement for appointment by deputation and the advertisement dated 14.09.2004 invited application only for direct recruitment.

(c) Appointment by direct recruitment and deputation basis is contrary to law and therefore sixth respondent's initial appointment itself is illegal.

d) Even if the deputation is valid, it cannot be more than three years.

e) As the initial appointment of 6th respondent itself is bad in law, his subsequent absorption is also bad in law.

II) The sixth respondent lacks basic eligibility conditions for appointment Notification dated 14.09.2004 and Appendix III to the UGC notification on revision of pay scales, minimum qualification for appointment of Teachers in Universities and Colleges and other measures for the maintenance of Standards 1998.

III) The petitioner is qualified to apply for the post in 2010.

IV) The petitioner has got locus standi to question the petitioner's absorption which was made in 2010.

(V) The absorption without advertisement or without offering to others, is contrary to law. The absorption has been made with mala fide motive to benefit only the sixth respondent violating the rights of others.

(VI) The selection was made on the basis of interview only as admitted in counter affidavit of the third respondent and the same is contrary to law settled by the Hon''ble Apex Court.

(VII) There is no material in the Executive Council's Minutes as to why the sixth respondent's tenure was renewed for a further period of five years in 2010, especially the third respondent sought to retain the sixth respondent by its letter dated 21.01.2010 till October 2010 only. Therefore, the decision of the Executive Council of the third Respondent is illegal.

(VIII) There is no laches on the part of the petitioner as contended by the petitioner as the writ was filed in time challenging the 6th respondent's absorption on 19.04.2010.

28. For the reasons stated above, this court sets aside the appointment of the sixth respondent to the post of Registrar of the third respondent by quashing the order of the fifth respondent dated 06.05.2010 and 07.06.2010 along with the order of the fourth respondent dated 21.05.2010. Therefore, the third respondent is directed to issue fresh notification for appointment of Registrar by advertisement inviting applications from the prospective candidates and complete the selection process within two months from the date of receipt of a copy of this order. In the result, the Writ Petition is allowed. No cost.