

In the High Court of Judicature at Madras

Dated: 28.11.2008

Coram:

The Honourable Mr.Justice S.J.MUKHOPADHAYA

and

The Honourable Mr.Justice V.DHANAPALAN

Writ Petition No.20773 of 2008

and M.P.No.1 of 2008

The Union Public Service Commission,  
rep.by its Secretary,  
Dholpur House,  
Shahjahan Road, New Delhi. ...Petitioner

..vs..

1. M.R.Rany
2. Union of India,  
rep.by Union Territory of Pondicherry,  
rep.by Secretary to Government,  
Education Department, Pondicherry.
3. The Principal,  
Tagore Arts College,  
Lawspet, Pondicherry-8.
4. Registrar,  
Central Administrative Tribunal,  
Chennai Bench,  
Chennai.

..Respondents

Writ petition filed under Article 227 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the entire records leading to the issue of the final orders in O.A.No.224 of 1995 dated 11.07.1996 on the file of the 4<sup>th</sup> respondent, Central Administrative Tribunal, Chennai Bench, Chennai and quash the same.

For Petitioner : Mr.K.Sridhar

For Respondents : Mr.T,Murugesan,  
Senior Govt.Pleader(P)  
for R2 and R3  
No appearance for R1

ORDER

(Order of the Court was made by S.J.MUKHOPADHAYA,J.,)

The 1<sup>st</sup> respondent, who was the Part-Time Lecturer in Tagore Arts College in Pondicherry, initially preferred O.A.No.224 of 1995 before the Central Administrative Tribunal, Chennai. In the said case, the Tribunal, by order dated 11<sup>th</sup> July, 1996, directed not to replace the 1<sup>st</sup> respondent by any person other than the one selected by way of regular selection through Union Public Service Commission; to continue the service of 1<sup>st</sup> respondent till work load justifies such continuation; fix the pay of 1<sup>st</sup> respondent on par with that of regular Lecturers and to make such payment for actual period of service put in by the 1<sup>st</sup> respondent after 8<sup>th</sup> February, 1994 with arrears in view of the direction aforesaid. So far as the relief regarding treating the 1<sup>st</sup> respondent as ad hoc Lecturer and declaring the breaks at the end of every academic year as illegal, was rejected. However, it was observed that at the time of regular selection, the case of the 1<sup>st</sup> respondent may be considered along with others by relaxing the upper age limit to the extent of service put in by the 1<sup>st</sup> respondent.

2. Regular selection is made by Union Public Service Commission (for short 'UPSC'), which was not a party to the aforesaid O.A.No.224 of 1995. The 1<sup>st</sup> respondent, being over aged, her case was not considered by UPSC. At that stage, being aggrieved, the 1<sup>st</sup> respondent preferred another O.A.No.997 of 2004 against UPSC for non-consideration of her case being over aged and moved the Central Administrative Tribunal for the following reliefs:

(a) not considering the case of the 1<sup>st</sup> respondent in accordance with the direction of Tribunal in O.A.No.224 of 1995 is arbitrary, illegal and unjust; and

(b) UPSC has failed to see that even in 1997, the 1<sup>st</sup> respondent had been considered to the post of Lecturer in Tamil and if her experience is taken into account, she is eligible for the post of Lecturer in Tamil;

3. The Central Administrative Tribunal, on hearing the parties, by order dated 20<sup>th</sup> July, 2005, observed that the case of the 1<sup>st</sup> respondent ought to have been considered on merits notwithstanding the upper age limit and directed the petitioner-UPSC to declare the result of one OBC post within a period of two weeks. As the impugned order dated 20<sup>th</sup> July, 2005 is finally based on the earlier order passed by the Tribunal on 11<sup>th</sup> July 1996 in O.A.No.224 of 1995, wherein the UPSC was not a party respondent, the writ petition has been preferred by UPSC against the ex parte order passed against them in O.A.No.224 of 1995.

4. Notices were issued on the 1<sup>st</sup> respondent. In spite of service on her, she has not entered appearance through counsel, nor denied the fact that the order dated 11<sup>th</sup> July 1996 in O.A.No.224 of 1995 was passed ex parte against the UPSC. It has also not been denied that the recent order dated 20<sup>th</sup> July 2005 in O.A.No.997 of 2004 has been passed by the Tribunal in view of the earlier order dated 11<sup>th</sup> July 1996 in O.A.No.224 of 1995.

5. Learned counsel for the petitioner submitted that no direction can be given to relax the age. The same can be relaxed only if a general decision is taken for relaxation of age in regard to similarly situated candidates and not with regard to an individual, otherwise, it will be violative of Article 14 of the Constitution as relaxation of age of other similarly candidates shall not be considered. It was further submitted that relaxation of age limit beyond the maximum possible 8 years, on any other basis like the length of service, is not permissible.

6. We have heard the learned counsel appearing for the petitioner-UPSC and the learned counsel appearing on behalf of respondents 2 and 3, the Union Territory of Pondichery and perused the records.

7. As admittedly, there is no provision to relax rules with regard to the individual's age for a period beyond eight years and the order dated 11<sup>th</sup> July 1996 in O.A.No.224 of 1995 was passed ex parte without notice and hearing the UPSC, we are of the view that the 1<sup>st</sup> respondent cannot derive any advantage from the directions given by the Tribunal, which were completely illegal, being against the law. We, accordingly, set aside the order dated 11<sup>th</sup> July 1996 passed in O.A.No.224 of 1995 and the consequential order passed on the rest of the said order dated 20<sup>th</sup> July 2005 in O.A.No.997 of 2004.

8. The writ petition is allowed. But there shall be no order as to costs. Consequently, connected M.P.is closed.

Sd/  
Asst.Registrar

/true copy/

Sub Asst.Registrar

gl

To

1. The Secretary to Government,  
Union of India,  
Union Territory of Pondicherry,  
Education Department, Pondicherry.

2. The Principal,  
Tagore Arts College,  
Lawspet,  
Pondicherry-8.

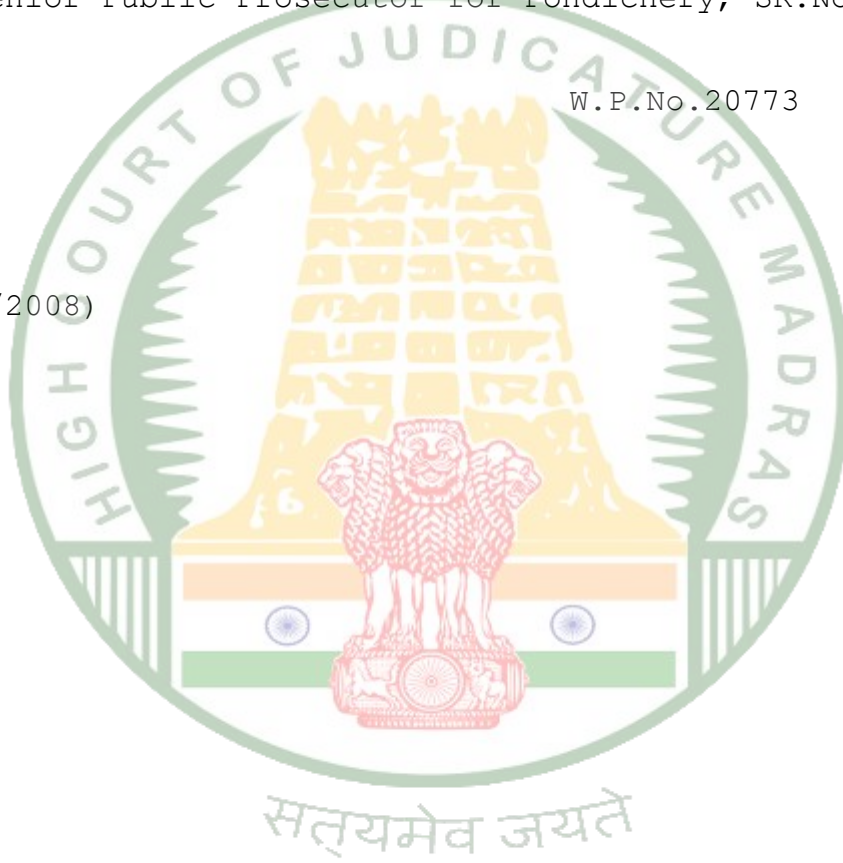
3. The Registrar,  
Central Administrative Tribunal,  
Chennai Bench,  
Chennai.

1 cc To Mr.K.Sridhar, Advocate, SR.66921

1 cc To Senior Public Prosecutor for Pondichery, SR.No.66900

W.P.No.20773 of 2008

NSM(CO)  
SRA(10/12/2008)



WEB COPY