

(2014) 09 MAD CK 0120

Madras High Court

Case No: W.P. (MD) Nos. 15185 and 15186 of 2012 and 572 of 2013

R. Sakthivel

APPELLANT

Vs

The Syndicate

RESPONDENT

Date of Decision: Sept. 25, 2014

Hon'ble Judges: S. Manikumar, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

S. Manikumar, J.

In W.P. No. 15185 of 2012, the petitioner, Dr. K. Sakthivel, has sought for a Writ of Certiorarified Mandamus, calling for the Notification issued by Bharathidasan University, in No. 35036/H2/2012, dated 22.08.2012, in so far it has reserved the post of Associate Processor in the Department of Remote Sensing for SC-A, quash the specialisation prescribed for the post of Associate Professor in the Department Remote Sensing "◆Applied Geophysics for Seismotectonics, Neotectonics, Mineral and Hydrocarbon Exploration, Seismic Methods, Reservoir Geophysics, basin Modelling" and consequently, direct the respondent-University to invite fresh advertisement, for the post of Associate Professor, strictly in accordance with the reservation envisaged under the Tamilnadu Act 4 of 2009.

2. In W.P. 15186 of 2012, the petitioner, Dr. S. Ravivarman, has sought for a Writ of Certiorarified Mandamus, calling for the same Notification, quash the same and consequently, direct the respondent university to invite fresh advertisement for the post of Associate Professor, Associate Professor, and Professor strictly in accordance with the reservation envisaged under the Tamilnadu Act 4 of 2009.

3. In W.P. No. 573 of 2013, the petitioner, Dr. K. Sakthivel, has sought for a Writ of Certiorarified Mandamus, calling for the Minutes of the Syndicate Meeting of the 1st respondent, dated 22.12.2012 (signed on 29.12.2012), quash the same, insofar as it has approved the appointment of 3rd respondent, as Associate Professor in Remote

Sensing and consequently, direct the respondents to hold selection afresh for the post of Associate Professor in Remote Sensing by prescribing the correct qualification and consider the petitioner and other eligible candidates.

4. In all the three writ petitions, pleadings and submissions are one and the same and therefore, they are disposed of, by a common order.

5. Both Dr. R. Sakthivel (petitioner in W.P. No. 15185 of 2012 and W.P. No. 572 of 2013) and Dr. S. Ravi Varman (petitioner in W.P. No. 15186 of 2012) belong to Scheduled Caste community. Dr. R. Sakthivel has completed M.Sc. in Applied Geology and later on, completed Ph.D. in Remote Sensing. He has also completed Post Graduate Diploma in Computer Application. He has joined the Respondent-University as a Junior Research Fellow in the year 1999 and working as Assistant Professor in the Department of Remote Sensing. He has successfully completed National Eligibility Test.

6. Dr. S. Ravi Varman (petitioner in W.P. No. 15186 of 2012) is a Post Graduate in M.A., and completed M.Ed., in Education Technology. He has also completed Ph.D., in Education. Vide Notification, dated 22.08.2012, the Respondent-University has invited applications for filling up the post of Assistant Professor, Associate Professor and Professor in different departments. He has applied for the post of Assistant Professor in Education Technology. He has submitted that reservation has been made for Scheduled Caste (Arunthathiyars), instead of Scheduled Caste.

7. Both of them have submitted that object and reasons behind the promulgation of Act 4 of 2009, is that it has been decided to provide for reservation for Arunthathiyar within reservation provided for Scheduled Caste. Accordingly, in terms of Section 3 of the Act, out of the percentage reserved for the Scheduled Caste, 16% is kept apart for Arunthathiyars. In other words, in terms of the reservation policy followed in Government of Tamil Nadu, out of 18% reserved for Scheduled Caste, approximately 1/6th of 18, viz., 3% is intended for Scheduled Caste (Arunthathiyars)

8. According to the petitioners, perusal of the advertisement shows that in respect of various departments, though several posts for Scheduled Caste (Arunthathiyars) have been called for, not even one post is earmarked for Scheduled Caste (General). Therefore, they have submitted that the University has acted in total contravention of the provisions of the Act 4 of 2009, read with G.O. Ms. No. 61, dated 27.05.2009, which envisages only 3% reservation for the Scheduled Caste (Arunthathiyars). It is also their contention that G.O. Ms. No. 65, contemplates a revised 200 point roster, which identifies the points meant for Scheduled Caste and Scheduled Caste (Arunthathiyars). However, the University has totally lost sight of the provisions of the abovesaid Act 4 of 2009 and the Government Order.

9. The petitioner, Dr. K. Sakthivel, in W.P. No. 15185 of 2012 and 572 of 2013, has further submitted that as a Ph.d. Degree holder, in Remote Sensing, he is eligible to apply for the post of Associate Professor. According to him, vide impugned

notification, for the first time, for the post of Associate Professor in Remote Sensing, the Respondent-University has called for specialisation, as follows:

"Applied Geophysics for Seismotectonics, Neotectonics, Mineral and Hydrocarbon Exploration, Seismic Methods, Reservoir Geophysics, basin Modelling"

10. It is the contention of the petitioner in W.P. No. 15185 of 2012 and 572 of 2013 that such a prescription is totally irrelevant and there is no connection with the field of Remote Sensing. In all the earlier advertisements, whenever applications were invited for the post of Associate Professor, Professor etc, specialisation was always for Remote Sensing, and GI in Disaster Mapping, Geomorphology, Water Resources etc. But, for the first time, specialisation in Remote Sensing was excluded, with a view to exclude eligible candidates, like the petitioner, who is otherwise qualified in all respects. According to the petitioner, exclusion of the specialised qualification in remote sensing, is with a mala fide intention. For the above reasons, the petitioners in W.P. Nos. 15185 and 15186 of 2012, have challenged the impugned notification, dated 22.08.2012.

11. According to the petitioners, when W.P. Nos. 15185 and 15186 of 2012, came up for hearing on 27.11.2012, the learned Standing Counsel for the Respondent-University, took notice and agreed to file counter affidavit. The matter was posted on 10.12.2012, but it was taken up hearing only on 17.12.2012. On that day, the respondent-University has filed its counter affidavit and argued the matter extensively. However, the matter was adjourned, for getting certain information, with regard to roster points. Thereafter, the matter was not listed. Taking advantage of the same, the respondent-University has finalised the selection and that the syndicate of the respondent-University, vide its resolution, dated 22.12.2012, has approved various appointments, including that of the 3rd respondent as Associate Professor in the Department of Remote Sensing. It is the contention of the petitioners that that rules have been violated to select the 3rd respondent.

12. Dr. K. Sakthivel, petitioner in W.P. No. 15185 of 2012 and 572 of 2013, has further submitted that the respondent-University has not called him, for interview for the post of Associate Professor, for the reason that the University has unilaterally decided that he was not eligible for the post of Associate Professor, on the premise that he did not possess 8 years of service. According to him, the University has completely ignored the fact that he had worked in the respondent-University from 1999, as a Research Fellow and was subsequently appointed as Assistant Professor. In terms of UGC norms and circulars, the period of Research has to be reckoned for the purpose of counting eligibility. However, with a mala fide intention and in order to exclude the petitioner, the University has disqualified him, in the selection. According to the petitioner, by prescribing qualifications as Geophysics, Hydrocarbon, Exploration, the University has omitted the field of Remote Sensing, which is a specialised area to study and which is done through Satellite and when there is huge demand for the particular field, by creating a separate department in

the University, exclusion of such specialised qualification has been done, solely to select the 3rd respondent.

13. The Registrar, Bharathidasan University, Tiruchirappalli, 2nd respondent herein, in his counter affidavit, has stated that before issuing the notification, it is practice of the University to call for the remarks, from the Head of the Department, regarding the available faculty, and the faculty needed for the Department, with specialisation, if any, etc. On receipt of such expert opinion and after ascertaining the need and demand, notification would be issued. For instance, the Chemistry Department contains various faculties, like, Organic Chemistry, Inorganic Chemistry, Physical Chemistry, Industrial Chemistry, etc. Therefore, to ascertain the faculty position in these fields and requirement of the faculty, in any of these positions, remarks would be called for, from the Head of the Department. Thereafter, as per the requirements of the Department, notification would be issued. According to the 2nd respondent herein, the Head of the Department of Remote Sensing had recommended for filling up the vacancy with candidates specialised in Remote Sensing and GIS in Water Resources, Geomorphology, Disaster Mapping. The University has taken a decision to notify the vacancy, depending upon the requirement in the department.

14. The Registrar, Bharathidasan University, has further submitted that the Government of Tamil Nadu, vide G.O. Ms. No. 206, dated 06.11.2008, directed 200 Point Communal Roster System to be followed for the appointments made on or after 22.10.2008. Therefore, appointments made thereafter had to run vertically from Sl. No. 1, i.e., General Turn, in the 200 Point Roster. Among the said vertical reservation, various horizontal reservations have been made, for instance, Women, Destitute Women, Ex-Serviceman, etc. One such horizontal reservation is as per G.O. Ms. No. 50, dated 29.04.2009 and G.O. Ms. No. 61, dated 29.05.2009, for filing 3% reservation for Scheduled Caste (Arunthathiyars). The said Government Orders fix the place for them at Serial Nos. 2, 32, 66 and so on. Therefore, after Serial No. 1, i.e., General Turn, the next vacancy has to be filled up with SC (Arunthathiyars).

15. The respondent-University has further submitted that reservation and the communal Roster, as envisaged by the Government, in the abovesaid Orders, have been strictly followed by the University. He has also filed a Tabular Column, along with the counter affidavit to prove that 200 point communal Roster has been followed in many of the Scheduled Caste posts. Now insofar as the post of Associate Professor, is concerned, it is the turn for Scheduled Caste (Arunthathiyars). He has also submitted that in case of non-availability of Scheduled Caste (Arunthathiyars) candidate, a general Scheduled Caste candidate would be considered. The Registrar of the respondent-University has also filed a typed set of papers.

16. Refuting the same, a common additional affidavit has been filed by the petitioners, stating that 200 point roster came into force only in the year 2008, vide G.O. Ms. No. 206, dated 06.11.2008 and therefore, it defies logic, as to how, the University has started operating the 200 point roster, even before it come into force.

According to them, the information furnished by the University is incorrect and it contradicts to the advertisement issued by the University. The details furnished by the petitioners, are as follows:

(i) Assistant Professor:-

Departments

Actually called for, as per Advertisement

Information furnished in the typed set of papers

1. Computer Science

1 MBC (2007)

1 BC (2007)

1 GT

2. English

1 SC (2007)

1 GT

3. Micro Biology

1 MBC (2007)

1 BC

1 GT

1 MBC

4. Remote Sensing

1 BC (2007)

1 GT

5. Japanese

Not called for at all

Wrongly shown as 1 GT

6. German

1 GT, but post was not filled up. Hence, the post should be carried forward and should be filled only by GT

Wrongly shown as 1 MBC

7. Medical Physics

There is no such department at all and this has been deliberately invented by the respondent to introduce a new reservation roster.

(ii) Associate Professor:-

Departments

Actually called for, as per Advertisement

Information furnished in the typed set of papers

1. Chemistry

1 SC (2007)

Wrongly shown as 1 GT

2. Social Exclusion & Inclusion Policy

1 SC (A) (2011)

Wrongly shown as 1 GT

3. Education (CDE)

Not called for at all

Wrongly shown as 1 GT

17. In both the common affidavits, the petitioners have contended that the very sub-Classification is against the judgment of the Apex Court. According to them, the posts advertised cannot be exclusively given to Scheduled Caste (Arunthathians).

18. Material on record discloses that a resolution, dated 22.12.2012, approving the selection of the 3rd respondent herein, has been stayed. Seeking to vacate the interim stay, the 3rd respondent in W.P. No. 572 of 2013, has filed a counter affidavit, stating that he belong to Schedule Caste Community. He studied Master's Degree in Geology during 1985-87 and passed in First Class. Thereafter, he studied M.Phil Degree in Geology in the year 1998 and passed in First Class. In the year 2001, he was conferred with Ph.D. in Geology, entitled "Petrological and Petrochemical studies of Rock", in and around Vijayapuri, Perundurai Taluk.

19. The 3rd respondent has further submitted that he joined Geological Survey of India on 14.05.92, as a Senior Technical Assistant (Geology). The nature of work involved field work as well as laboratory work, through scientific research for mineral exploration in various fields in the states of Tamil Nadu, Kerala and Andhra Pradesh. In the year 2004, he was promoted as Assistant Geologist and thereafter, in the year 2008, further promoted as Geologist. The major function of the Geological Survey of India is exploration of mineral resources, through scientific

research and technology. The scientific methods would involve surface mapping, offshore survey and exploration, Engineering Geology and geotechnical investigation, research and development, information service and education etc. These activities of Geological Survey of India can be carried out only through scientific means and research. The information about the activities and functions of the Geological Survey of India is well documented in its websites.

20. The 3rd respondent has further submitted that in the field of scientific research, he had published 18 scientific papers and that the same are widely used. Along with his colleagues, he has 10 technical reports. In the year 2007, he received National Mineral Award for the discovery of huge lignite deposits in Ramnathapuram District. According to the 3rd respondent, such discovery would not be possible without scientific research. On the strength of his scientific research, he had applied for the National Geosciences Award 2012.

21. The 3rd respondent has further submitted that he has all the basic educational qualifications, to be appointed as Associate Professor. In the year 1993, he was appointed as a lecturer in the Geology Department of Jawahar Science College at Newveli. However, he has chosen to join Geological Survey of India, in view of the wide opportunity to engage State of Art Technology and Scientific Tools. In the year, 2010, he had applied for the post of teacher in Geology Department of Pondicherry University and his candidature was considered. However he was not selected in the competitive process.

22. The 3rd respondent has further submitted that he applied for the post of Associate Professor in the Remote Sensing Department in Bharathidasan University, as he possess the necessary qualifications. According to him, he has passed his Master's Degree in Geology in First class and that he was conferred with PhD Degree in Geology. He has also passed M.phil Degree, to be eligible for the post of lecturer. He has the research experience of about 20 years with the Geological Survey of India and that out of the said work, he has published around 18 papers and have other unpublished works to his credit. Besides, he has the specialized qualification in mineral exploration, as stated in the said advertisement.

23. The 3rd respondent has further submitted that on being appointed as Associate Professor, by the proceedings of the respondent-University, dated 22.12.2012, he has submitted his technical resignation with the Geological Survey of India on 24.12.2012. The question of reservation would not arise, as the petitioners and 3rd respondent, belong the same category. The respondent-University is well within its right to prescribe the specialized qualifications and that the Petitioner, having participated in the selection process, is not entitled to question the same. According to the 3rd respondent, it is not correct to state that such specialized qualifications have been introduced to exclude the Petitioner. The advertisement clearly provides a minimum of 8 years experience, either in teaching or research. Hence, W.P. No. 15185 of 2012 and W.P. No. 572 of 2013 are not maintainable. The other W.P. No.

15186 of 2012 is liable to be dismissed on the ground of implementation of the said policy to the Scheduled Caste (Arunthathiyars).

24. Dr. R. Sakthivel, petitioner in W.P. No. 15185 of 2012 and W.P. No. 572 of 2013, has filed an additional affidavit, stating that the very advertisement issued by the respondent-University, on 22.08.2012, is contrary to University Grants Commission Regulation, 2010. Regulation 4.3(iv) of the University Grants Commission Regulation, 2010, is extracted hereunder:

◆Contribution to educational innovation, design of new curricula and courses, and technology-mediated teaching learning process with evidence of having guided doctoral candidates and research students"

25. According to the petitioner, the said mandatory clause has been deliberately excluded in the advertisement, in order to favour the 3rd respondent. It is also his contention that on his own admission, the 3rd respondent has stated that he had not engaged in teaching or guiding any candidates, who acquire higher education. According to him, the advertisement is in violation of Para 4.3. (iii) of the Regulation, which states that one must have completed 8 years of experience in teaching or research in a position equivalent to that of Assistant Professors. The Grade Pay of Assistant Professor in University is Rs. 6,000/-, whereas the 3rd respondent was working only as the Assistant Geologist, which is having a Grade Pay of Rs. 5,400/-. Therefore, the 3rd respondent, by his own admission, does not have 8 years of experience in a position, equivalent to that of Assistant Professor and therefore, not eligible to apply for the post of Associate Professor.

26. The petitioner in W.P. No. 15185 of 2012 and W.P. No. 572 of 2013, has further submitted that as per the UGC Regulation 4.3(V), one must have a minimum score stipulated in the Academic Performance Indicator in Appendix III of the Regulations and if it is worked out, as per the norms in the said Appendix, the petitioner's score would be more than 1,400, than that of the 3rd respondent, which hardly comes to about 300 or even less. It is the further case of the petitioner that he has applied for Ph.D. in August 2002. Therefore, the period of research undertaken by him from 1999 to 2002, as a Junior Research Fellow/Senior Research Fellow, under the respondent university has to be counted as research experience. He submitted his Ph.D. thesis in December 2004 and thereafter, continued as Research Project Coordinator in the respondent-University from December 2004 upto July 2005, when he was appointed as Assistant Professor. Therefore, by counting this period of 8 months, he is eligible in all respects for appointment as Associate Professor.

27. The 3rd respondent has filed a reply affidavit, wherein, he has denied the contentions of the petitioner that he did not possess the required qualifications, in compliance with the requirements of clause 4.3(iv) of the University Grant Commission (Minimum qualifications for appointment of Teachers and other academic staff in the University and Colleges and other measures for the

maintenance of standards in the higher education) Regulations, 2010. According to him, he has satisfied all the qualifications. Before the Selection Committee, he has fulfilled the requirements of clause 4.3(iv) of the abovesaid regulations.

28. It is the further case of the 3rd respondent that he has produced letters of appreciation by the Head, Department of Geology, Jawahar Science College, Neyveli and the Director, Geological survey of India and the certificate issued by Doctor R.S. Kumar, Associate Professor/Principal Investigator, Department of Earth Science's, Annamalai University, dated 28.07.2012, with regard to his contributions to the educational innovation and to prove, as to how, he has guided post graduate students and doctoral candidates, to complete their research. Therefore, he has submitted that the allegations, as to non-compliance of clause 4.3(iv) of UGC Regulation, 2010 are unsustainable.

29. Respondents 1 and 2 herein, in their counter affidavit, prayed to treat the counter affidavit filed in W.P. Nos. 15185 and 15186 of 2012, as part and parcel of the counter affidavit filed in W.P. No. 572 of 2013. In the counter affidavit, the respondents have extracted 4.3.0 of UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and measures for the Maintenance of Standards in Higher Education, 2010, which is as follows:

◆4.3.0 Associate Professor:

i. Good academic record with a Ph.D., Degree in the concerned/allied/relevant disciplines.

ii. A master's Degree with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed).

iii. A minimum of eight years of experience of teaching and/or research in an academic/research position equivalent to that of Assistant Professor in a University, College or Accredited Research Institution/industry excluding the period of Ph.D., research with evidence of published work and a minimum of 5 publications as books and/or research/policy papers.

iv. Contribution to educational innovation, design of new curricula and courses, and technology-mediated teaching learning process with evidence of having guided doctoral candidates and research students.

(v) A minimum score as stipulated in the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS), set out in this Regulation in Appendix III.◆

30. According to the respondents, Regulations 10.0 of the said Rules, provides the manner, in which past services had to be counted. Clause (f) states ?The previous appointment was not as Guest Lecturer for any duration, or an ad hoc or in a leave

vacancy of less than one year duration. Ad hoc or temporary service of more than one year duration can be counted provided that:

- (i) the period of service was more than one year duration;
- (ii) the incumbent was appointed on the recommendation of duly constituted selection committee; and
- (iii) the incumbent was selected to the permanent post in continuation to the ad hoc or temporary service, without any break.?

31. The Registrar, Bharathidasan University, has further submitted that the service of the petitioner, Dr. K. Sakthivel, as a Guest Lecturer cannot be taken into account. The petitioner, Dr. K. Sakthivel, had worked as Guest Lecturer for a period from 2001 to 2005, which cannot be taken into account, as per the said regulation. The said regulation further read that the teaching and/or research in an academic/research position equivalent to that of Assistant Professor in a University, College or Accredited Research Institution/industry should be taken. The petitioner, Dr. Sakthivel, was a Junior Research fellow and had not done any research in a position, equivalent to that of a Assistant Professor. A Junior Research fellow works under the Principal Investigator, to whom a project is awarded and he would be paid salary or wages in the form of stipend. Therefore, the Registrar, Bharathidasan University has stated that at no stretch of imagination, the services of the petitioner, as Junior Research fellow, could be equated to that of an Assistant Professor, so as to count the same, in terms of the abovesaid provisions. Therefore, according to the University, the petitioner is ineligible and not qualified and therefore, he was not considered for selection. Insofar as the third respondent is concerned, the University has further submitted that he possess the following qualifications and experience,

Qualifications:-

M.Sc. Geology- 1987- First class

M.Phil. Geology- 1990- First class

Ph.D. Geology-September, 2001

Experience:-

Post Ph.D. Research/Working Experience- 11 Years.

Total experience- 20 years and 4 months in Geological Survey of India (GSI)

Senior Technical Assistant (Geology) 14.5.92 to 27.9.2004 ? 12 years-4 months- 14 days.

Assistant Geologist-Group B (Gazetted)- 28.9.2004 to 11.6.2008-3 years- 8 months- 14 days.

Junior Geologist-Group A (Gazetted)-12.6.2008 to 17.09.2012-4 years- 3 months- 6 days.

32. The Registrar, Bharathidasan University, 2nd respondent herein, has further submitted that the Geological survey of India is the second oldest Government Organization of India and it has got a multidisciplinary and fundamental Geological Research Vision and Charter, which includes:-

Develop and continually enhance GSI's core competence in survey and mapping through continued accretion, management, co-ordination and utilization of spatial database (including those acquired through remote sensing) and function as a "Repository" clearing house" for the purpose and use new and emerging computer based technologies for dissemination of geoscientific information and spatial data, through cooperation and collaboration with other stakeholders in the Geoinformatics sector.

Conduct multidisciplinary as well as fundamental Geoscientific research and studies (including geotechnical investigations, physics, chemical and biological hazard geo investigations, climate change geo studies, paleo geostudies etc.), and foster partnerships with state and Central research and academic institutions for the purpose.

Actively participate in international collaborative projects to improve our understanding of the earth and its ecosystems and its geology, including studies related to tectonics, global warming and climate change, and polar studies.

Generally advance the cause of the geoscience by documentation, propagation, archiving and education, including creation and management of museums, monuments and parks, archives, libraries and other facilities for use of students, researches and the public. In particular constantly Endeavour to popularize Geoscience at school and university levels through production and dissemination high quality audio-visual and printed material, and through the medium of the Internet. Also hold exhibitions and special events to bring geoscientific concepts before the public.

33. The 2nd respondent-University has further submitted that the third respondent herein has joined GSI in the year 1992, as a Senior Technical Assistant and till date of filing of the counter affidavit, he had involved himself in Geo-exploration for coal mineral and later in platinum group of elements exploration (Service Certificate from his employee). In recognition of his work in coal exploration and finding of new coal deposit, he and his team members have been awarded one of the very coveted "National Mineral Award" by the Government of India in 2007.

34. According to the University, the third respondent has 20 years of service in GSI, which is nothing, but research experience which satisfies the minimum eight years of experience in research, under the norms prescribed in clause 4.3.0 of UGC

Regulations of 2010. In addition to the above, the third respondent herein had also published more than 15 publications in ISSN journal. The third respondent herein had scored more than 300 API score (Academic Performance Indicator), essential for the post of Associate Professor (UGC 2010 Regulations Appendix III ? Table II).

35. According to the University, the 3rd respondent is qualified, eligible and a fit candidate for the post of Associate Professor in the Department of Remote Sensing with specialization in "Mineral Exploration" and the selection committee, after due application of mind and perusal of materials available pertaining to the rival candidates and performance of the candidates in the interview, have selected the third respondent for the said post. On the contrary, the petitioner is not eligible for the said post.

36. As regards the difference in pay, the University has stated that the claim of the petitioner that he has got experience in a post, equivalent to that of Assistant Professor, is not tenable for the reason a Junior Research fellow, is either by qualification nor by scale of pay could be considered as equivalent to Assistant Professor. Even as per the salary certificate issued by the Principal Investigator, enclosed by the petitioner to his application, his pay is as follows:

This was from February 1999 to till 10-08-2002, the date of said Certificate. The said amount was paid as salary by the Principal Investigator to the petitioner, out of the project fund received for that particular project, here it was Environmental Assessment and Monitoring of Kalrayan Hills, Eastern Ghats, Tamil Nadu using remote sensing and Geographical Information system. What he was paid was a consolidated pay and not a regular running scale of pay. But the Assistant Professors at that relevant period of time were receiving pay of Rs. 2200-75-2800-100-4000. This is a running scale of pay. When Dearness allowance, House rent allowance, City Compensatory allowance, Medical allowance etc., are added to their aforesaid basic salary, they would have got Rs. 5500-6000/- approximately as against the consolidated sum of Rs. 2,850/- received by the petitioner.

37. It is further submitted that during 1999, Assistant Professor was called as Lecturer whose qualification was (a) Post Graduate Degree pass with 55% marks; (b) NET/SLET pass. If they possess M.Phil Degree before 1993, NET/SLET is exempted. Petitioner had passed SLET exams in May 2000. Therefore the petitioner became qualified for even being appointed as Assistant Professor (Lecturer) only in May 2000. During the period when he was a Junior research fellow, Ph.D., researcher and he neither received the scale of pay nor in a position equivalent to that of Assistant Professor. Therefore, he is ineligible and was rightly rejected.

38. Arguments have been advanced by both the parties.

39. Maintainability of the Writ Petitions by the unsuccessful candidates and locus standi has been questioned by the 3rd respondent.

40. Before adverting to the rival submissions, this Court deems it fit to consider the statutory provisions, enabling reservation to the Scheduled Caste (Arunthathiyars). State of Tamil Nadu has enacted Act 4 of 2009, called as, "Tamil Nadu Arunthathiyars (Special Reservation of Seats in Education Institutions, including Private Educational Institutions and of appointments or posts in the services under the State, within the Reservation for the Scheduled Castes) Act, 2009". In exercise of the powers, conferred by Section 13 of the abovesaid Act, the Tamil Nadu Arunthathiyars (Special Reservation of Seats in Education Institutions, including Private Educational Institutions and of appointments or posts in the services under the State, within the Reservation for Scheduled Castes) Rules, 2009, have been framed. Rule 3 of the abovesaid Rules, dealing with reservation of seats for Arunthathiyars, is extracted hereunder:

"In the sixteen per cent of seats offered to Arunthathiyars within the seats reserved for Scheduled Castes for admission in Educational Institutions including Private Educational Institutions and of appointments or posts in the services under the State, the first seat shall be offered to Arunthathiyars as illustrated below:-

ILLUSTRATION

Out of 100 seats, 18 seats are reserved for Scheduled Castes in the following rotation:-

2

32

66

6

36

72

12

42

76

16

52

82

22

56

86

26

62

92

The seats to Arunthathiyars shall be offered in the rotation 2, 32 and 66."

41. The Government have issued G.O. Ms. No. 61, Adi Dravidar and Tribal Welfare (TD 2) Department, dated 29.05.2009, as hereunder:

GOVERNMENT OF TAMIL NADU

ABSTRACT

Act-The Tamil Nadu Arunthathiyars (Special Reservation of seats in Educational Institutions including Private Educational Institutions and of appointments or posts in the services under the State within the Reservation for the Scheduled Castes) Act, 2009- Rules framed and competent authority ? Notified-Amendment issued.

Adi Dravidar and Tribal Welfare (TD 2) Department

G.O. (Ms). No. 61

Dated

29.05.2009

itfhrp 15 jpUts; Sth; Mz; L 2040

Read:-

G.O. Ms. No. 50, Adi Dravidar and Tribal Welfare (TD 2) Department,

dated 29.04.2009

ORDER:-

The following Notification will be published in the Tamil Nadu Government Gazette,

NOTIFICATION

In exercise of the powers conferred by section 13 of the Tamil Nadu Arunthathiyars (Special Reservation of seats in Educational Institutions including Private Educational Institutions and of appointments or posts in the Services under the State within the Reservation for the Scheduled Castes) Act, 2009 (Tamil Nadu Act 4 of 2009), the Governor of Tamil Nadu hereby makes the following amendment to the Tamil Nadu Arunthathiyars (Special Reservation of seats in Educational Institutions including Private Educational Institutions and of appointments or posts in the services under the State within the Reservation for the Scheduled Castes) Rules, 2009:-

AMENDMENT

In the said Rules, in rule 3 in the illustration for the expression

"The seats to Arunthathiyars shall be offered in the rotation 2, 32 and 66", the following expression shall be substituted, namely:-

"The seats to be allotted to Arunthathiyars on preferential basis shall be offered in the horizontal rotation such as 2,32 and 66. The preferential seats if filled up, it does not mean that the other qualified Arunthathiyars shall not compete with the rest of the Scheduled Castes members on inter-se merit basis; vice versa, if no qualified Arunthathiyars are available to fill up the preferential seats, it does not mean that the vacancies so arising shall not be filled up by the Scheduled Castes members on merit basis".

(By order of the Governor)

T.N. Ramanathan

Secretary to Government

To

The Works Manager, Government Central Press, Chennai-79

(for the publication of Notification and to send 500 copies to Government)

All Secretaries to Government,

stock file/spare copy

//Forwarded by Order//

Section Officer

42. The impugned notification, dated 22.08.2012, of the Bharathidasan University, insofar as the post of Associate Professor in Remote Sensing, is concerned, reads as follows:

"Essential Qualification:-

(i) Master's Degree in Geology/Applied Geology/Marine Geology with atleast 55% marks or an equivalent grade in a point scale wherever grading system is followed.

(ii) Ph.D. Degree in Geology/Geophysics/Earth Sciences.

(iii) A minimum of 8 years of teaching and/or research experience in an academic/research position, equivalent to that of Assistant Professor with evidence of published work and minimum of 5 publication as books and/or research/policy papers.

(iv) A minimum score as stipulated in the Academic Performance Indicator (API) based on Performance Based Appraisal System (PBAS), set out in UGC Regulation in Appendix III.

Specialisation:-

Applied Geophysics for Seismotectonics, Neotectonics, Mineral and Hydrocarbon, Exploration, Seismic Methods, Reservoir Geophysics, Basin Modeling."

43. Insofar as the first challenge, regarding rules of reservation to the post of Associate Professor, is concerned, the Registrar, Bharathidasan University, has contended that the Government of Tamil Nadu, vide G.O. Ms. No. 206, dated 06.11.2008, have directed 200 Point Communal Roster System be followed for the appointments made on or after 22.10.2008. Appointments made thereafter had to run vertically from Sl. No. 1, i.e., General Turn, in the 200 Point Roster. Among the said vertical reservation, various horizontal reservations have been made, for instance, Women, Destitute Women, Ex-Serviceman, etc. One such horizontal reservation is G.O. Ms. No. 50, dated 29.04.2009 and G.O. Ms. No. 61, dated 29.05.2009, for filing 3% reservation for Scheduled Caste (Arunthathiyars). The said Government Orders fix the place for them at Serial Nos. 2, 32, 66 and so on. Therefore, after Serial No. 1, i.e., General Turn, the next vacancy has to be filled up with SC (Arunthathiyars).

44. Though the petitioners have contended that sub-Classification for reservation of Scheduled Caste (Arunthathiyars) is against the law, laid down by the Apex Court, in the case on hand, there is no challenge, either to the Act or the Government Order, prescribing reservation for Scheduled Caste (Arunthathiyars). In the absence of any challenge to the statutory provisions, the consequential Government Orders, as to how, the vacancy to the posts of Scheduled Caste (Arunthathiyars) have to be filled up, the contentions to the contra, cannot be countenanced.

45. Perusal of G.O. (Ms) No. 65, Personnel and Administrative Reforms (K) Department, dated 27.05.2009, for the post of Associate Professor in the department/centre of Remote Sensing in Bharathidasan University, the said post has been reserved for Scheduled Caste (Arunthathiyars) on preferential basis. When preference has been indicated in the Advertisement, the said post has to be filled up by a Scheduled Caste (Arunthathiyars) candidate and only in the absence of the Scheduled Caste (Arunthathiyars), others can be considered. Notification No. 35036/H2/2012, dated 22.08.2012, has also been issued only in the same lines. The University is bound to follow the statutory provisions.

46. During the course of hearing, attention of this Court was invited to the qualifications prescribed for the post of Associate Professor in 2010 and a contention was also made that there is deviation from the same. Qualifications prescribed for the post of Associate Professor in the year 2010 read as follows:

"Good academic record with a Doctoral Degree of equivalent published work. In addition to these, candidates who join from outside the University system, shall also possess at least 55% of the marks or an equivalent grade of B in the 7 point scale with latter grades O, A, B, C, D, E & F, at the Master's Degree level.

Five years of experience of teaching and/or research excluding the period spent for obtaining the research degrees and has made some mark in the areas of scholarship as evidenced by quality of publications, contribution to educational innovation, design of new courses and curricula.

Remote Sensing: Remote sensing and GIS in Tectonics, Geo Morphology and Water Resoures."

47. At this juncture, it is relevant to reiterate the University Grants Commission (Minimum qualifications for appointment of Teachers and other academic staff in the University and Colleges and other measures for the maintenance of standards in the higher education) Regulations, 2010, in respect of the post of Associate Professor, as follows:

"(i) Good academic record with a Ph.D. Degree in the concerned/allied/relevant disciplines.

(ii) A Master's Degree with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed).

(iii) A minimum of eight years of experience of teaching and/or research in an academic/research position equivalent to that of Assistant Professor in a University, College or Accredited Research Institution/industry excluding the period of Ph.D. research with evidence of published work and a minimum of 5 publications as books and/or research/policy papers.

(iv) Contribution to educational innovation, design of new curricula and courses, and technology ? mediated teaching learning process with evidence of having guided doctoral candidates and research students.

(v) A minimum score as stipulated in the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS), set out in this Regulation in Tables I to IX of Appendix III."

48. One of the main points addressed by the petitioner is that he has satisfied the minimum of 8 years of experience in teaching and/or research in an academic/research position, equivalent to that of Assistant Professor in a University, College or Accredited Research Institution/industry excluding the period of Ph.D., research with evidence of published work and a minimum of 5 publications as books and/or research/policy papers.

49. Yet another aspect addressed was that for selection to the post of Associate Professor in the University is to the contribution to educational innovation, design of new curricula and courses, and technology-mediated teaching learning process with evidence of having guided doctoral candidates and research students. The other aspect is a minimum score stipulated in the Academic Performance Indicator in Appendix III of the Regulations. Appendix III, Category III deals with research and

academic contributions.

50. A comparative statement of qualifications and experience of the petitioner and that of the 3rd respondent, as per the materials furnished, are as follows:

Dr. R. Sakthivel

Dr. A. Balakkarasu

Master of Science (Geology) in the year 1998

Master of Science (Geology) in the year 1987

SLET (Geology) in the year 2000

Master of Philosophy in the year 1990

Doctor of Philosophy in the year 2005

Doctor of Philosophy in the year 2001

Ph.D. in Geoenvironmental Management of Kalrayan Hills, Tamil Nadu, India: An Integrated Remote Sensing and GIS Approach Ph.D. in Petrological and Petrochemical studies of Rock Guest Lecturer in the Department of Geology, School of Geosciences for a period from 2001 to 2005. Assistant Lecturer in the Centre of Remote Sensing, School of Geosciences, for the period from 11.07.2005 to 03.08.2012.

Thereafter, Assistant Lecturer in the Department of Geology, School of Geosciences, from 03.08.2012.

Appointed as Senior Technical Assistant (Geology) on 14.05.1992 in Geological Survey of India. Promoted to the post of Assistant Geologist on 29.09.2004.

Again, promoted to the post of Geologist on 12.06.2008.

Publications:-

1. Exploration of Platinum Group of Elements in Nodular Ultramafic Rocks of Sathyamangalam Area, Tamil Nadu (National Symposium on Recent trends in Earth Science Research, Department of Geology, Annamalai University, Chidambaram, P.67.
2. Occurrence of PGE minerals in Archaean layered Anorthosite Complex, Tamil Nadu, South India (Indian Journal of Geoscience, Volume 63, No. 3 July-Sept, 2009; pp 305-310)
3. Petrography and characterization of PGE Ores in Chetiyampalaiyam Block in Sittampund Anorthosite Complex, Tamil Nadu. (International Symposium on Magmatic Deposit-ISMO- 2009, p.53-54, 1st to 4th December, 2009).

4. Exploration for Platinum Group of Elements in Sittampund Anorthosite Complex, Tamil Nadu. (National Symposium on Environmental Geology, Department of Geology, Anna University, Chennai) p.24-25
5. Regional exploration in east coast lignite field, South Arcot, Thanjore, Pudukottai and Ramanathapuram districts, Tamil Nadu. Records of GSI, Vol. 128-part-2 (1995) p257-258. ISSN- 0370-5226
6. Regional exploration in east coast lignite field, South Arcot, Thanjore, Pudukottai and Ramanathapuram districts, Tamil Nadu. Records of GSI, Vol. 129-part-2 (1998) p247-248. PGSI. II. CXXIX-2/1,000-1996(DSK. II)
7. Regional exploration for lignite in the Orthanadu-Pattukkotti area, Thanjore district, Tamil Nadu. Records of GSI, Vol. 130-part-2 (1999) p214. ISSN-0370-5226
8. Regional exploration for lignite, clay and associated minerals in Kannur and Kasrgod districts, Kerala. Records of GSI, Vol. 130-part-2 (1999) p214-215. ISSN-0370-5226
9. Regional exploration for lignite in Orthanadu-Pattukkotti area, Eastcoast Lignite Fields, Thanjore district, Tamil Nadu. Records of GSI, Vol. 131-part-2 (1999) p204-205. ISSN-0370-5226
10. Regional exploration for lignite in Orthanadu-Pattukkotti area, Thanjore district, Tamil Nadu. Records of GSI, Vol. 132-part-2 (1999) p227-228. ISSN-0370-5226
11. Regional exploration for lignite in Orthanadu-Pattukkotti area, Thanjore district, Tamil Nadu. Records of GSI, Vol. 133-part-2 (1999) p237-238. ISSN-0370-5226
12. Exploration by scout drilling for lignite in Madukkur-Anaikarai Area, East Coast lignite? field, Thanjore district, Tamil Nadu. Records of GSI, Vol. 134-part-2 (2001) p247-248. PGSI. II. CXXXIII-2/1,000-2001 (DSK. II)
13. Exploration by scout drilling for lignite in Madukkur-Anaikarai Area, East Coast lignite field, Thanjore district, Tamil Nadu.. Records of GSI, Vol. 134-part-2 (2001) p249. PGSI. II. CXXXIII-2/1,000-2001 (DSK. II)
14. Regional exploration for Coal in Sittanagaram Block, Southern Sub-Basin of Godavari Vassley Coalfield, Khammam and West Godavari districts, Andhra Pradesh. Records of GSI, Vol. 136-part-2 (2007) p. 183-184.
PGSI. II Vol. CXXXVI(P-2)/I,000-2002 (DSK. II)
15. Search for lignite in Misal Area, Ramnad Sub-Basn, Ramanathapuram district, Tamil Nadu. Records of GSI, Vol. 17-part 21 (2005) p 165-166.
PGSI. II Vol. CXXXVII (P-2)/I,000-2003(DSK. II)
16. Exploration for Lignite by scout drilling in Misal Area, Ramanathapuram district, Tamil Nadu (GSI Record-2007 Vol 138)

17. Exploration for Lignite by scout drilling in Misal Area, Ramanathapuram district, Tamil Nadu (GSI Record-2007 Vol 139). Records of GSI, Vol. 139-part-2 (2007) p 132-133. PGSI. II Vol. CXXXIX(P-2)/I,000-2006(DSK. II)

18. Exploration for lignite in Tiyanur Sector, Ramnad Sub-Basin, Ramanathapuram district, Tamil Nadu. Records of GSI, Vol. 139-part-2 (2007) p132-133. PGSI. II Vol. CXXXIX(P-2/1,000-2006(DSK. II)

National Mineral Award ? 2007, for the discovery of huge lignite deposits in Ramnathapuram District.

Experience Certificate issued by Dr. M. Manivel, Reader and Head, Principal Investigator, Bharathidasan University, Department of Geology, certifying the petitioner as Junior Research Fellow (JRF) in a major research project entitled, "Environment Assessment and Monitoring of Kalrayan Hills, Eastern Ghats, Tamil Nadu using Remote Sensing and Geographical Information System, sponsored by the Ministry of Environment and Forests, Government of India, New Delhi, in association with the Department of Environment Sciences, Bishop Heber College, Tiruchirappalli, from February" 1999 to February" 2002, at a basic pay of Rs. 2,650/- per month plus MA and HRA allowances. He was also worked as Research Project Coordinator in the Major Research Project ♦Municipal GIS-SALEM" from December 2004 to July 2005 in the Department of Geology, Bharathidasan University, Tiruchirappalli.

1. Letter of appreciation, dated 17.08.2009, issued by the Prof. K.R. Tamilselvan, Head Department of Geology, Jawahar Science College, Block-14, Neyveli 607803.

2. Letter of appreciation, dated 27.06.2012, given by Mr. M. Ravikumar, Director (G), SU: TN & P, Geological Survey of India, Chennai.

3. Letter of appreciation, dated 04.09.2012, given by Prof. K.R. Tamilselvan, Head Department of Geology, Jawahar Science College, Block-14, Neyveli 607803.

4. Certificate, dated 27.11.2012, issued by the Drawing and Disbursing Officer, for Director-in-Charge, SU: TN & P, Geological Survey of India, Chennai.

5. Letter of appreciation, dated 05.03.2013, given by the Director-in-Charge, SU: TN & P, Geological Survey of India, Chennai.

51. Letters and Certificates given to the 3rd respondent, stated in the above tabular column, are as follows:

(i) 1. Letter of appreciation, dated 17.08.2009, issued by the Prof. K.R. Tamilselvan, Head Department of Geology, Jawahar Science College, Block-14, Neyveli 607803.

"It is my pleasure to express my sincere gratitude for the great support and valuable suggestions offered for the successful recommencement of the UG course in Geology in the year 2009. Titles of the papers for the syllabus suggested by you

were with the insight to prepare the students for the PG course. This curriculum will be helpful for the students to stand on par with the students of Geology across the country.

Moreover you have pointed out the various job avenues for the students of geology in India and also in abroad. The syllabus will enable the students to prepare for UPSC Examinations and also for other National Eligibility Tests.

We have also learnt from you that Geological Survey of India is recruiting every year more than 500 post graduates in Geology for the various posts. Certainly our students will utilize this opportunity and they are in need of your career guidance always. On behalf of our college management I wish to thank you for everything."

(ii) Letter of appreciation, dated 27.06.2012, given by Mr. M. Ravikumar, Director (G), SU: TN & P, Geological Survey of India, Chennai.

"I wish to appreciate your sincerity and enthusiasm in imparting petrological knowledge in the field of granulites and associated Khondalite Group of rocks of Southern Granulite Terrain, Tamil Nadu to Shri. P. Sanjay and Shri M. Kathiravan, Centre for Remote Sensing, Bharathidasan University, Trichy, from 22.06.2012 to 26.06.2012. They were also taught to understand various innovative methods like presenting the resource material through LCD and other modern gadgets to widen their practical knowledge of the concerned sphere."

(iii) Letter of appreciation, dated 04.09.2012, given by Prof. K.R. Tamilselvan, Head Department of Geology, Jawahar Science College, Block-14, Neyveli 607803.

"I owe my deep sense of gratitude for the help extended to my students in inculcating the various perspectives of geology during the field trips. The field visit has enabled them learn the applications of theories and it was the great opportunity to incorporate the classroom study, practically in the field. Both the field trip and the subject taught intensively by you were adventurous and very much useful. This will instill in them an urge for getting to know the subject indepth. Your constant support and encouragement has made the field trip comfortable for the student and the teaching faculty and we request this kind of practical study every year. I greatly appreciate the really innovative field experience shared with you by our students and teaching faculty are the great moments in their life. Looking forward to your constant support in this regard.◆"

(iv) Certificate, dated 27.11.2012, issued by the Drawing and Disbursing Officer, for Director-in-Charge, SU: TN & P, Geological Survey of India, Chennai.

"This is to certify that Dr. A. Balukkarasu is working as Geologist in Geological Survey of India, SU: TN & P, Chennai. He is in continuous Government service from 14.05.1992. His work experience in GSI is given below:

Mineral Prospecting 20 years Lignite (Tamil Nadu and Kerala) 12 years Coal (Godhavari Valley, AP)- 021:50,000 scale, Detailed mapping on 1:10,000 scale, Borehole planning and execution, core logging and sampling, data compilation, geotechnical studies, coal petrology and Palaeontological studies and report writing.

PGE 06 years (Tamil Nadu)

Large scale Mapping on 1:12,500 scale, Detailed Geological Mapping on 1:1000 scale. Pitting and Trenching, Sampling, Data compilation, petrological and petrochemical studies and report writing.

He has undergone the following professional training in Geological Survey of India Training Institute during the course of his service:

- 1) Orientation course for Geologists (6 Months)
 - 2) Workshop in the ultramafic rocks of Sukinda-Boula-Nausahi area in Orissa
 - 3) Refresher course in Ore microscopy
 - 4) Refresher course in Metamorphic petrology
 - 5) Received national mineral award 2007 for discovery of huge lignite deposit in Ramnad sub basin, Cauvery basin, Tamil Nadu
 - 6) FSP 2006-s2008 Sittampundi report has been announced by the GSI in portal as a model report for exploration in entire GSI."
- (v) Certificate, dated 05.03.2013, issued by the Director-in-Charge, SU: TN & P, Geological Survey of India, Chennai.

This is to certify that Dr. A. Balukkarasu is working as Geologist in Geological Survey of India, SU: TN & P, Chennai. He is in continuous Government service from 14.05.1992. His technical and research experience in GSI since 14/05/1992 to till date are furnished below:

Mineral Prospecting 20 years Lignite (Tamil Nadu and Kerala) 12 years Coal (Godhavari Valley, AP)- 02 years The work includes Geological Mapping on 1:50,000 scale, Detailed mapping on 1:10,000 scale, Borehole planning and execution, core logging and sampling, data compilation, geotechnical studies, coal petrology and Palaeontological studies and report writing.

PGE ? 06 years (Tamil Nadu)

Large scale Mapping on 1:12,500 scale, Detailed Geological Mapping on 1:1000 scale. Pitting and Trenching, Sampling, Data compilation, petrological and petrochemical studies and report writing.

He has undergone the following professional training in Geological Survey of India during the course of his service for the enhancement of skill in technical and

research domain:

- 1) Orientation course for Geologists (6 Months)
- 2) Workshop in the ultramafic rocks of Sukinda-Boula-Nausahi area in Orissa
- 3) Refresher course in Ore microscopy
- 4) Refresher course in Metamorphic petrology
- 5) Received national mineral award 2007 for discovery of huge lignite deposit in Ramnad sub basin, Cauvery basin, Tamil Nadu"

52. Inter-alia, the qualifications prescribed for the post of Associate Professor are that eight years of experience of teaching and/or research excluding the period spent for obtaining the research degrees and has made some mark in the areas of scholarship as evidenced by quality of publications, contribution to educational innovation, design of new courses and curricula. Insofar as the case of the petitioner, Dr. R. Sakthivel, is concerned, the Registrar, Bharathidasan University, has categorically stated that the services as a Guest Lecturer, for a period from 2001 to 2005, cannot be taken into account, as per UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and measures for the Maintenance of Standards in Higher Education, 2010.

53. It is also the statement of the Registrar, Bharathidasan University that the teaching, and/or research in an academic/research position equivalent to that of Assistant Professor in a University, College or Accredited Research Institution/industry, alone can be taken. According to the University, the petitioner, Dr. Sakthivel, was a Junior Research fellow and that had not done any research in a position, equivalent to that of a Assistant Professor. A Junior Research fellow works under the Principal Investigator, to whom a project is awarded and that he would be paid salary or wages in the form of stipend. It is also the categorical statement of the 2nd respondent-University that the services of the petitioner, as Junior Research fellow, cannot be equated to that of an Assistant Professor, so as to count his service, in terms of the abovesaid resolutions.

54. At this juncture, it is worthwhile to extract Regulation 10.0(f) of the abovesaid regulations, which is as follows:

"The previous appointment was not as Guest Lecturer for any duration, or an ad hoc or in a leave vacancy of less than one year duration. Ad hoc or temporary service of more than one year duration can be counted provided that:

- (i) the period of service was more than one year duration;
- (ii) the incumbent was appointed on the recommendation of duly constituted selection committee; and

(iii) the incumbent was selected to the permanent post in continuation to the ad hoc or temporary service, without any break."

55. Though the petitioner has contended that his services as a Junior Research Fellow, has to be counted for the purpose of experience, in view of the abovesaid Regulations, the same cannot be countenanced. On the aspect of prescribing qualifications for the post of Associate Professor and the contention that inclusion of the specialised qualification for the post of Associate Professor in Remote Sensing, is only to exclude the petitioner, it is the contention of the Registrar, Bharathidasan University that before issuing any notification, it is the usual practice of the University to call for the remarks, from the Head of the Department, regarding the available faculty and faculty needed for the Department, with any specialisation, etc., and on such expert opinion and after ascertaining the need and demand, notification would be issued. According to the 2nd respondent herein, the Head of the Department of Remote Sensing had recommended for filling up the vacancy with candidates specialised Remote Sensing and GIS in Water Resources, Geomorphology, Disaster Mapping. The University has considered the recommendation and having regard to the availability of a faculty, decided to issue the notification, with qualifications. Recommendations of the Head of the Department is not always binding. The University can take appropriate decision, depending upon the requirement.

56. Decisions relied on by the learned counsel for the petitioners are as follows:

(i) In [State of Maharashtra Vs. Shashikant S. Pujari and Others,](#), the Supreme Court at Paragraph 26, held as follows:

"The colleges affiliated to University are bound by the Regulations. The Regulations have force of law. Terms and conditions of services of an University Employee as also the employees of colleges affiliated to it are governed by statutory regulations. Regulations in terms of the provisions of the Act were framed in 1991 known as "The University Grants Commission (Qualification required of a person to be appointed to the teaching staff of a University and Institutions affiliated to it) Regulation, 1991". Regulation 2 provides for the essential qualifications."

(ii) In *Jeevarathinam v. Government of Tamil Nadu* reported in 2008 (7) MLJ 1074, this Court, held as follows:

"37. Very recently, a Division Bench of this Court vide its decision in [The Secretary, Kamaraj College Vs. D.S. Arulmani, Reader and Head of Department of Tamil, Kamaraj College and Others,](#), dealt with the application of G.O. Ms. No. 111 Higher Education Department dated 24.3.1999 vis-a-vis the Private Colleges Act and held that a legislation made by the State cannot override the said G.O. and UGC Regulations are binding on the affiliated Colleges in the matter of selection to the posts of Lecturers.

41. Hence, the Notification in G.O. Ms. No. 263 Law Department dated 20.02.2005 prescribing the qualification for the post of Lecturer (Senior Scale) as well as the requisition dated 18.8.2006 made by the State to the TRB to recruit teachers with such qualifications are declared to be ultra vires to the UGC Regulations dated 04.4.2000 and unconstitutional and any consequential selections made will have no validity in the eye of law. The respondent State is directed to amend the Special Rules in accordance with the UGC Regulations and thereafter, request the TRB to recruit candidates for the post of Lecturers in accordance with law."

(iii) In [Veer Kunwar Singh University Ad hoc Teachers Association and Others Vs. The Bihar State University \(C.C.\) Service Commission and Others,](#), the Supreme Court held as follows:

"Creation of sanctioned posts is a sine qua non for recruitment to the post of lecturers. Adherence to the statutory provisions therefor is imperative in character. No doubt the qualification for holding the post of lecturer has since been changed in terms of the ordinance promulgated in the year 1993, but then the same was done as per the directions of the University Grants Commission. The colleges whether constituent or recognized must have lecturers who are qualified to hold the post. Qualification to hold the post of lecturer is fixed by the University Grants Commission. A University can ignore the directions of the University Grants Commission in this behalf only at its own peril and risk of derecognition. Neither it is permissible for a University to contravene the directions of the University Grant Commission nor, in our opinion, is it permissible for a court of law to issue a direction contrary thereto."

(iv) In [D. Ganesan Vs. State of Tamil Nadu and Others,](#), this Court held as follows:

"11. The Tamil Nadu Dr. Ambedkar Law University has taken a stand that they would go by para 4.2.0 of the Annexure to the UGC Regulations 2010. The UGC Regulations 2010, not only prescribes a Master's Degree with at least 55% marks by a recognised University, but also prescribed a Ph.D. Degree. The third respondent admittedly does not have a Ph.D. Degree. Therefore, the third respondent is not qualified as per the UGC Regulations 2010. The ad hoc rules framed by the Government and amended by G.O. Ms. No. 66, dated 12.3.2010, cannot have overriding effect upon the UGC Regulations. The validity of the UGC Regulations have already been upheld by a Division Bench of this Court to which I was a party, in [The Secretary, Kamaraj College Vs. D.S. Arulmani, Reader and Head of Department of Tamil, Kamaraj College and Others,](#). Therefore, neither the third respondent nor the Government can give a go by to the UGC Regulations 2010 and rely upon the ad hoc rules. There cannot be any quarrel over the decisions, cited supra, that University Grants Commission's Regulations, have to be followed. If the above decisions are applied to the case of the petitioner, Dr. K. Sakthivel, then he is not eligible to be considered for selection.

(v) In [Ravi Yashwant Bhoir Vs. District Collector, Raigad and Others,](#) the Supreme Court held as follows:

"47. This Court has consistently held that the State is under an obligation to act fairly without ill will or malice-in fact or in law. Where malice is attributed to the State, it can never be a case of personal ill-will or spite on the part of the State. "Legal malice" or "malice in law" means something done without lawful excuse. It is a deliberate act in disregard to the rights of others. It is an act which is taken with an oblique or indirect object. It is an act done wrongfully and wilfully without reasonable or probable cause, and not necessarily an act done from ill feeling and spite.

48. Mala fide exercise of power does not imply any moral turpitude. It means exercise of statutory power for "purposes foreign to those for which it is in law intended." It means conscious violation of the law to the prejudice of another, a depraved inclination on the part of the authority to disregard the rights of others, where intent is manifested by its injurious acts. Passing an order for unauthorized purpose constitutes malice in law. (See: [Additional District Magistrate, Jabalpur Vs. Shivakant Shukla,](#) ; [Union of India \(UOI\) through Govt. of Pondicherry and Another Vs. V. Ramakrishnan and Others,](#) ; and [Kalabharati Advertising Vs. Hemant Vimalnath Narichania and Others,](#) .

57. Learned counsel for the 3rd respondent submitted that having participated in the selection, it is not open to an unsuccessful candidate to challenge the selection process. Decisions relied on by him are as follows:

(i) In [University of Cochin, Rep., by its Registrar, University of Cochin Vs. N.S. Kanoonjamma and others,](#) the Supreme Court, at Paragraph 4, held as follows:

"Having participated in the selection, she is estopped to challenge the correctness of the procedure. That apart, we have already held that procedure was correctly followed and therefore, the omission to mention in the advertisement that it was a special recruitment is of no consequence."

(ii) In [Chandra Prakash Tiwari and Others Vs. Shakuntala Shukla and Others,](#) the Supreme Court, at Paragraphs 31 to 34, held as follows:

"31. This Court in [Tata Iron and Steel Co. Ltd. Vs. Union of India and Others,](#) dealt with the issue of estopped by conduct rather exhaustively and one of us (Banerjee, J) in paragraphs 20 and 21 stated the law pertaining thereto as below:-

"20. Estoppel by conduct in modern times stands elucidated with the decisions of the English Court in Pickard v. Sears (1837) 6 Ad. & E1.469) and its gradual elaboration until placement of its true principles by the Privy Council in the case of (1892) ILR 20 296 (Privy Council) whereas earlier Lord Esher in the case of Seton, Laing Co. v. Lafone, (1887) 19QBD 68 evolved three basic elements of the doctrine of Estoppel to wit:

"Firstly, where a man makes a fraudulent misrepresentation and another man acts upon it to its true detriment: Secondly, another may be where a man makes a false statement negligently though without fraud and another person acts upon it: And thirdly, there may be circumstances under which, where a misrepresentation is made without fraud and without negligence, there may be an estoppel."

Lord Shand, however, was pleased to add one further element to the effect that there may be statements made, which have induced other party to do that from which otherwise he would have abstained and which cannot properly be characterised as misrepresentation. In this context, reference may be made to the decisions of the High Court of Australia in the case of *Craine v. Colonial Mutual Fire Insurance Co. Ltd.* (1920: 28 C.L.R. 305) Dixon, J. in his judgment in *Grundt. v. Great Boulder Gold Mines Pvt. Ltd.*, (1939: 59 C.L.R. 641) stated that:

"In measuring the detriment, or demonstrating its existence, one does not compare the position of the representee, before and after acting upon the representation, upon the assumption that the representation is to be regarded as true, the question of estoppel does not arise. It is only when the representor wished to disavow the assumption contained in his representation that an estoppel arises, and the question of detriment is considered, accordingly, in the light of the position which the representee would be in if the representor were allowed to disavow the truth of the representation."

(In this context see Spencer Bower and Turner: Estoppel by Representation 3rd Edn.)

Lord Denning also in the case of *Central Newbury Car Auctions Ltd. v. Unity Finance Ltd.*, (1956) 3 All ER 905) appears to have subscribed to the view of Lord Dixon, J. pertaining to the test of detriment" to the effect as to whether it appears unjust or unequitable that the representator should now be allowed to resile from his representation, having regard to what the representee has done or refrained from doing in reliance on the representation, in short, the party asserting the estoppel, must have been induced to act to his detriment. So long as the assumption is adhered to, the party who altered the situation upon the faith of it cannot complain. His complaint is that when afterward the other party makes a different state of affairs, the basis of an assertion of right against him then, if it is allowed, his own original change of position will operate as a detriment. [vide *Grundts*: High Court of Australia (1939 (59) CLR 641)]

21. Phipson on Evidence (Fourteenth Edn.) has the following to state as regards estoppels by conduct.

"Estoppels by conduct, or, as they are still sometimes called, estoppels by matter in pais, were anciently act of notoriety not less solemn and formal than the execution of a deed, such as livery of seisin, entry, acceptance of an estate and the like; and whether a party had or had not concurred in an act of this sort was deemed a matter which there could be no difficulty in ascertaining, and then the legal

consequences followed. [Lyon v. Reed, (1844) 13M & W.285, 309] The doctrine has however, in modern times, been extended so as to embrace practically any act or statement by a party which it would be unconscionable to permit him to deny. The rule has been authoritatively stated as follows: "Where one by his words or conduct willfully causes another to believe the existence of a certain state of things and induces him to act on that belief so as to alter his own previous position, the former is concluded from averring against the later a different state of things as existing at the same time." [Pickard v. Sears (1837) 6 Ad. & El. 469, 474] And whatever a man's real intention may be, he is deemed to act willfully "if he so conducts himself that a reasonable man would take the representation to be true and believe that it was meant that he should act upon it. (Freeman v. Cooke: 1848 (2) Exch. 654, 663).

Where the conduct is negligent or consists wholly of omission, there must be a duty to the person misled. Mercantile Bank v. Central Bank (1938) AC 287, 304 and National Westminster Bank v. Barelays Bank International, (1975 Q.B. 654) This principle sits oddly with the rest of the law of estoppel, but it appears to have been reaffirmed, at least by implication, by the House of Lords comparatively recently. Moorgate Mercantile Co. Ltd. v. Twitching. (1977) AC 890 (H.L.)] The explanation is no doubt that this aspect of estoppel is properly to be considered a part of the law relating to negligent representations, rather than estoppel properly so-called. If two people with the same source of information assert the same truth or agree to assert the same falsehood at the same time, neither can be estopped as against the other from asserting differently at another time. [Square v. Square (1935) P. 120]"

32. In conclusion, this Court recorded that the issue of estoppel by conduct can only be said to be available in the event of there being a precise and unambiguous representation and it is on that score a further question arises as to whether there was any unequivocal assurance prompting the assured to alter his position or status-the situation, however, presently does not warrant such a conclusion and we are thus not in a position to lend concurrence to the contention of Dr. Dhawan pertaining the doctrine of Estoppel by conduct. It is to be noticed at this juncture that while the doctrine of estoppel by conduct may not have any application but that does not bar a contention as regards the right to challenge an appointment upon due participation at the interview/selection. It is a remedy which stands barred and it is in this perspective in [Om Prakash Shukla Vs. Akhilesh Kumar Shukla and Others](#), a Three Judge Bench of this Court laid down in no uncertain terms that when a candidate appears at the examination without protest and subsequently found to be not successful in the examination, question of entertaining a Petition challenging the said examination would not arise.

33. Subsequently, the decision in Om Prakash stands followed by a later decision of this Court in [Madan Lal and Others Vs. State of Jammu and Kashmir and Others](#), wherein this Court stated as below:

"9 Before dealing with this contention, we must keep in view the salient fact that the petitioners as well as the contesting successful candidates being respondents concerned herein, were all found eligible in the light of marks obtained in the written test, to be eligible to be called for oral interview. Up to this stage there is no dispute between the parties. The petitioners also appeared at the oral interview conducted by the Members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned. Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves selected to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted. In the case of [Om Prakash Shukla Vs. Akhilesh Kumar Shukla and Others](#), it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such petitioner.

10. Therefore, the result of the interview test on merits cannot be successfully challenged by a candidate who takes a chance to get selected at the said interview and who ultimately finds himself to be unsuccessful. It is also to be kept in view that in this petition we cannot sit as a court of appeal and try to reassess the relative merits of the candidates concerned who had been assessed at the oral interview nor can the petitioners successfully urge before us that they were given less marks though their performance was better. It is for the Interview Committee which amongst others consisted of a sitting High Court Judge to judge the relative merits of the candidates who were orally interviewed, in the light of the guidelines laid down by the relevant rules governing such interviews. Therefore, the assessment on merits as made by such an expert committee cannot be brought in challenge only on the ground that the assessment was not proper or justified as that would be the function of an appellate body and we are certainly not acting as a court of appeal over the assessment made by such an expert committee."

34. There is thus no doubt that while question of any estoppel by conduct would not arise in the contextual facts but the law seem to be well settled that in the event a candidate appears at the interview and participates therein, only because the result of the interview is not "palatable" to him, he cannot turn round and subsequently contend that the process of interview was unfair or there was some lacuna in the process."

(iii) In [R.V. Swaminathan and Tamil Nadu Electricity Board, Finance and Accounts Officers Association Vs. The Tamil Nadu Electricity Board and Others](#), this Court held

that, "The next question is relating to eligibility of the candidates selected. As already indicated, though some misgivings can be expressed regarding the quality of experience of some of the candidates, the matter was essentially to be decided by the Selection Committee and the High Court cannot substitute its own judgment as it does not sit as an appellate authority in such matters."

(iv) In [Marripati Nagaraja and Others Vs. The Government of Andhra Pradesh and Others](#), this Court has succinctly held that the appellants had appeared at the examination without any demur. They did not question the validity of fixing the said date before the appropriate authority. They are, therefore, estopped and precluded from questioning the selection process.

(v) In [J.M. Jacqueline Maley and Others Vs. Union of India \(UOI\), The Director of Health and Family Welfare Services, V. Narveena and Central Administrative Tribunal](#), a Division of this Court, at Paragraphs 31 and 35, held as follows:

"31. When the unsuccessful candidates are not at all the candidates competing with the successful candidates, in its strict sense, they cannot even be referred as unsuccessful candidates, because the term applies only to a candidate participated in the process but unable to succeed. In this view of the matter, applying the ratio laid down by the Honourable Apex Court in catena of judgments, including the one cited above in *Trivedi Himanshu Ghansambhai v. Ahmedabad Municipal Corporation and Others* reported in [2007 (7) SUPREME 438], we hold that the applicants before the Tribunal/unsuccessful candidates have no locus standi to question the selection of the successful candidates. Further more, even though the deviation of the authorities from the selection procedure is illegal, the unsuccessful candidates would not have got any opportunity to participate in the selection procedure, since their applications themselves have been rejected at the threshold for non-compliance of certain requirements. Therefore, the attempt made on the part of the unsuccessful candidates to get the entire selection nullified cannot be appreciated.

35. When the unsuccessful candidates have failed to establish their case in any manner and further more, being unsuccessful, they are not entitled to challenge the selection, we are not able to appreciate the findings rendered by the Tribunal, in upholding the case of the unsuccessful candidates.

(vi) In *State of Uttar Pradesh v. Sangam Nath Panday* reported in 2011 (2) SCC 105, the Supreme Court that all the petitioners therein have participated in the selection process and remained unsuccessful and therefore, none of their legal rights has been infringed.

58. Prescription of marks, qualifications, mode of recruitment, depends upon the nature of service and it is purely within the exclusive domain of the University or appointing authority. Reference can be made to a decision made in [P.U. Joshi and Others Vs. The Accountant General, Ahmedabad and Others](#), the Supreme Court, at

Paragraph 10, held as follows:

"10. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service."

59. Both the petitioners have participated in the selection process, by submitting their applications for the post of Associate Professor in Remote Sensing in Bharathidasan University. Petitioner's (Dr. K. Sakthivel) candidature has been rejected, on the ground that he did not possess the required eight years of service. Both the petitioners have been unsuccessful in the process of selection and they have challenged the very same notification. Time and again, the Hon'ble Supreme Court, as well as this Court have held that it is not open to an unsuccessful candidate to challenge advertisements, prescribing the required posts. Having known the qualifications advertised, the petitioners have participated in the selection process and now it is not open to them to challenge the same, as arbitrary. Reference can be made to few decisions,

(i) In [Madan Lal and Others Vs. State of Jammu and Kashmir and Others,](#) the unsuccessful candidates challenged the process of selection of the District Munsifs in the State of Jammu and Kashmir undertaken by the Jammu and Kashmir Public Service Commission on the ground, inter alia that they fared well in the written examination and they were not selected. Besides, they also alleged bias and mala

fide in the process of assessment. The Supreme Court rejected the above contentions and while dealing the locus of the unsuccessful candidates, who had acquiesced themselves to the selection process, at paragraph 8 to 10 and 17 held as follows:

"8. The petitioners also appeared at the oral interview conducted by the Members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned. Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted.

9. Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, that they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or Selection Committee was not properly constituted. In the case of [Om Prakash Shukla Vs. Akhilesh Kumar Shukla and Others,](#), it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such a petitioner.

10. Therefore, the result of the interview test on merits cannot be successfully challenged by a candidate who takes a chance to get selected at the said interview and who ultimately finds himself to be unsuccessful. It is also to be kept in view that in this petition we cannot sit as a Court of appeal and try to re-assess the relative merit of the concerned candidates who had been assessed at the oral interview nor can the petitioners successfully urge before us that they were given less marks though their performance was better. It is for the Interview Committee which amongst others consisted of a sitting High Court Judge to judge the relative merits of the candidates who were orally interviewed in the light of the guidelines laid down by the relevant rules governing such interviews. Therefore, the assessment on merits as made by such an expert committee cannot be brought in challenge only on the ground that the assessment was not proper or justified as that would be the function of an appellate body and we are certainly not acting as a court of appeal over the assessment made by such an expert committee.

17..... Merely on the basis of petitioners' apprehension or suspicion that they were deliberately given less marks, at the oral interview as compared to the rival candidates, it cannot be said that the process of assessment was vitiated. This contention is in the realm of mere suspicion having no factual basis. It has to be kept in view that there is not even a whisper in the petition about any personal bias of the members of the interview committee against the petitioners. They have also not alleged any mala fides on the part of the interview committee in this connection. Consequently, the attack on assessment of the merits of the petitioners cannot be countenanced. It remains in the exclusive domain of the expert committee to decide whether more marks should be assigned to the petitioners or to the concerned respondents. It cannot be the subject matter of an attack before us as we are not sitting as a court of appeal over the assessment made by the committee so far as the candidates interviewed by them are concerned."

(ii) In [Union of India and Another Vs. N. Chandrasekharan and Another](#), selection to the post of Assistant Purchase officer, was challenged. The unsuccessful candidates have challenged the process of selection. The Tribunal quashed the promotions. While allowing the appeals preferred by the Union of India, the Supreme Court, at Paragraph 13, held as follows:

"It is not in dispute that all the candidates were made aware of the procedure for promotion before they sat for the written test and before they appeared before the Departmental Promotion Committee. Therefore, they cannot turn around and contend later when they found they were not selected, by challenging that procedure and contending that the marks prescribed for interview and confidential reports are disproportionately high and that the authorities cannot fix a minimum to be secured either at interview or in the assessment on confidential report."

(iii) The Supreme Court in [Sadananda Halo and Others Vs. Momtaz Ali Sheikh and Others](#), at Paragraph 35, held that unsuccessful candidates cannot turn back and assail the selection process, except in certain cases, where exceptions have been carved out by the Supreme Court.

60. Though the petitioners have challenged the selection, as arbitrary and contrary to the previous qualifications prescribed, as stated supra, unless and until, there is total deviation from the University Grants Commission Regulation, 2010, it is always open to the University to consider the requirements of the faculty, insofar as academic/research is concerned. It is the case of the respondent-University that after getting the remarks, from the Head of the Department, regarding the available faculty and faculty needed for the Department, with any specialisation, if any, etc., notification would be issued. Such practice cannot be said to have against the interest of the institution or the students, considering the need of the faculty, as decided by the University and going the qualifications prescribed, it cannot be said that the University has wholly flouted the norms of the University Grants Commission's Regulation altogether.

61. Court does not take up the work of inter-se assessment of qualifications, in the matter of selection, yet the comparative study extracted supra, shows that the 3rd respondent has completed M.Phil Degree in Geology in the year 1998 and conferred with Ph.D. in Geology, entitled "Petrological and Petrochemical studies of Rock", in and around Vijayapuri, Perundurai Taluk, in the year 2001. The 3rd respondent has joined Geological Survey of India on 14.05.92, as a Senior Technical Assistant (Geology). In the year 2004, he has been promoted as an Assistant Geologist and thereafter, in the year 2008, further promoted as Geologist. The major function of the Geological Survey of India is the exploration of mineral resources, through scientific research and technology. The scientific methods are stated to involve surface mapping, offshore survey and exploration, Engineering Geology and geotechnical investigation, research and development, information service and education etc.

62. The petitioner, Dr. K. Sakthivel, does not possess 8 years Teaching/Research experience equivalent to that of an Assistant Professor, as per Clause 4.3.0 (iii) of U.G.C. Regulations 2010. It is the case of the petitioner that he was a Junior research fellow from January 1999 to February 2002; Guest Lecturer along with Ph.D. research from August 2002 to November 2004; Senior Project Research Co-Ordinator from December 2004 to July 2005; Assistant Professor from 11-07-2005. Therefore his experience as aforesaid in the research has to be accounted as more than 8 years, whereas, material on record discloses that initially, the petitioner had registered his name for Ph.D., research in January 1999. He has completed the same and was awarded Ph.D., only in October 2005. Therefore, as per clause 4.3.0 (iii) of U.G.C. Regulations, the period of Ph.D., research has to be excluded. Similarly the period of his Guest Lectureship has to be excluded also, as per clause 10.1(f) of U.G.C. Regulations. As rightly contended by the University, if both periods are excluded, then the petitioner does not have 8 years research experience.

63. Going through the materials available on record, this Court is of the view that the petitioners, who did not satisfy the eligibility criteria and have gone through the selection process, cannot assail the qualifications prescribed by the University. There is no bias or mala fide in the selection of the 3rd respondent. Advertisement cannot be said to be illegal. Subsequently, the resolution passed on comparative assessment of eligibility of the candidates, cannot be said to be illegal. There are no materials, either to quash the notification or set aside the selection. Hence, the selection of the 3rd respondent is sustained.

64. In the result, all the writ petitions are dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.