

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Order reserved on: 03.02.2016

ORIGINAL APPLICATION NO. 060/01119/2014

Chandigarh, this the 08th day of February, 2016

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**CORAM: HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER (J)
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)**
...

Dr. Gurmel Singh, Associate Professor, presently posted at Post Graduate Government College for Girls, Sector 42, Chandigarh.

....APPLICANT

BY ADVOCATE: SHRI RAJ KAPOOR MALIK

VERSUS

1. Chandigarh Administration through its Secretary, Higher Education Department, Chandigarh, Sector 9, U.T. Secretariat, Chandigarh.
2. Director, Higher Education, Chandigarh Administration, Chandigarh.
3. Punjab University, Chandigarh through its Vice chancellor, Punjab University Campus, Sector 14, Chandigarh.
4. Screening Committee through its Chairman, D.U.I, Punjab University, Chandigarh.

....RESPONDENTS

BY ADVOCATE: SHRI ASEEM RAI FOR RESPONDETNS NO. 1&2
SHRI SAURABH DHAWAN, ASSTT. LAW OFFICER
FOR RESPONDETNS NO. 3 &4.

ORDER

...
HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER(J):-

In view of very limited controversy involved in this O.A., we need not go into detailed facts of the case. Suffice to observe that the applicant Gurmel Singh was appointed as Assistant Professor in Punjabi with the respondents no. 1 &2 (Chandigarh Administration) on

27.10.1989. The applicant was promoted to the post of Associate Professor on 01.01.2006. Respondent no. 2, Director Higher Education sent letter dated 30.09.2014 (Annexure A-2) to the Vice-Chancellor, Punjab University, Chandigarh (Respondent no. 3), stating interalia that there are 118 Associate Professors working in the cadre of U.T. Chandigarh and 10% thereof i.e. 12 posts have to be that of Professor. Respondent no. 3 was requested to get the applications of 43 candidates scrutinized and to recommend the names of Associate Professors for further promotion as Professor by constituting a Committee of Experts. Respondent no. 3 University being affiliating University was required to do the exercise as per UGC regulations. Application of the applicant was also forwarded along with other applications with the said letter (Annexure A-2). However, the applicant was not called for interview which was to be held on 12.12.2014.

2. The applicant has alleged that he fulfilled all the eligibility criteria for promotion to the post of Professor as laid down by UGC. He had 18 publications to his credit. Accordingly, the applicant has claimed the following relief:

"A) Direct the respondents No. 3 and 4 to call the applicant for the interview to the post of Professor by way of promotion from the post of Associate Professor before the result of the interview held on 12.12.2014 is to be declared."

3. Respondents no. 1 and 2 in their written short reply did not controvert the factual position. They pleaded that selection process has to be conducted by the University. The applications were

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accordingly forwarded to the University vide letter dated 30.09.2014 (Annexure A-2). The University intimated that the applicant was not found eligible for the post of Professor because he had 3 publications to his credit as against requirement of minimum 5 publications. Respondents no. 3 and 4 also filed reply and also took the same stand as that of respondents no. 1 & 2. They also gave history of correspondence between respondents inter-se.

4. Applicant has filed replications to controvert the stand taken by the respondents and to reiterate his version.

5. Pursuant to order passed by the Tribunal, respondents no. 3 & 4 filed affidavits dated 18.11.2015 and 03.12.2015. It was, interalia, stated that although there were 7 publications by the applicant since the year 2006 to the year 2014, but publications in slot of 3 years each only had to be considered and the same were as under:-

No. of Publications in each slot of three years.

Sr. No.	Year	No. of publication With ISBN/ ISSN number
1.	2006 to 2008	2
2.	2007 to 2009	2
3.	2008 to 2010	3
4.	2009 to 2011	2
5.	2010 to 2012	1
6.	2011 to 2013	0
7.	2012 to 2014	3

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It was thus alleged that the applicant never touched the bench-mark of 5 publications in any slot of 3 years and was, therefore, rightly held ineligible for the post of Professor.

6. We have heard counsel for the parties and perused the case file.

7. Counsel for the applicant contended that the applicant was within the zone of consideration and was fully eligible for the post of Professor as per UGC norms. It was submitted that API score of the applicant was 80 as against requirement of 60 and he had 7 publications to his credit as against requirement of minimum 5 publications during the relevant period. It was submitted that according to UGC norms (Annexure A-3), the minimum of 5 publications was required since the period that the teacher is placed in stage 3. The applicant admittedly was placed in stage 3 as Associate Professor on 01.01.2006 and according to the chart Annexure R/3&4/2 annexed with affidavit dated 03.12.2015, the applicant had 7 publications to his credit during the relevant period from the year 2006 to 2014 and was, therefore, eligible for the post of Professor.

8. Assistant Law Officer appearing on behalf of respondents no. 3 & 4, however, submitted that publications in the slot of 3 years each only had to be considered and the applicant did not have 5 publications to his credit in any slot of 3 years as detailed in Annexure R/3&4/2 annexed with the affidavit dated 03.12.2015. Counsel for respondents also submitted that this Tribunal has no jurisdiction over Punjab University (respondents no. 3 & 4) as held by Full Bench of five Judges

of Punjab & Haryana High Court in the case of Dr. M.C. Sharma Vs. The Punjab University, Chandigarh & Others [1996 (5) SLR 49].

9. Counsel for the applicant submitted that the applicant in the instant case is not challenging any Rule or Regulation of Punjab University and is rather seeking interview for the post of Professor under Chandigarh Administration over which the Tribunal has jurisdiction.

10. We have carefully considered the matter. As regards jurisdiction of the Tribunal, in the case of M.C. Sharma (Supra), the writ petitioner had challenged constitutionality of Rules/Regulations framed by Punjab University. It was held that the Tribunal has no jurisdiction to determine the constitutionality of the Rules framed by Punjab University as Tribunal has no jurisdiction over Punjab University. In the instant case, however, the applicant has not challenged any Rule or Regulation of Punjab University. On the contrary, the applicant has raised service matter relating to Chandigarh Administration over which the Tribunal admittedly has jurisdiction. Punjab University or its Screening Committee has been impleaded as respondents no. 3 & 4 in the O.A. because for promotion to the post of Professor, Chandigarh Administration referred the matter to Punjab University, being affiliating University, as required by UGC Regulations. Consequently, we are of the considered view that this Tribunal has jurisdiction to decide this O.A. and judgment in the case of M.C. Sharma is completely distinguishable.

11. As regards merit of the case, it is undisputed that the applicant was within the consideration zone and he had API score of 80 which was more than the minimum required score. The only question to be determined is whether the applicant had 5 publications to his credit being minimum publications required for the post of Professor. In this regard, extract of relevant regulations of UGC is reproduced herein below:-

Minimum Academic Performance and Service Requirements for Promotion of Teachers in University and Colleges.

S.No.	Promotion of Teachers through CAS	Service requirement	Minimum Academic Performance Requirement and Screening/Selection Criteria.
4.	Associate Professor (Stage 4) Professor/equivalent cadres (Stage 5)	Associate Professor with three years of completed service in Stage 4	<p>(i) Minimum yearly/cumulative API scores using the PBAS scoring proforma developed by the concerned university as per the norms provided in Table II(A)/II(B) of Appendix III. Teachers may combine two assessment periods (in stages 2 and 3) to achieve minimum API scores, if required.</p> <p>(ii) A minimum of five publications since the period that the teacher is placed in Stage 3.</p> <p>(iii) A selection committee process as stipulated in this regulation and in Tables II(A) and II(B) of Appendix III.</p>

A bare perusal of requirement (ii) above reveals that minimum of 5 publications was required since the period that the teacher is placed in stage 3 . It is undisputed that the applicant was placed in stage 3 w.e.f. 01.01.2006. Therefore, according to plain meaning of language of the aforesaid requirement, publications of the applicant since 01.01.2006 onwards till screening in November 2014 had to be taken into consideration. According to the chart Annexure R/3&4/2 annexed with affidavit dated 03.12.2015, the applicant had 7 publications to his credit during the said period. Consequently, the applicant had crossed

the bench-mark of minimum 5 publications during the relevant period and was, therefore, eligible to be considered for the post of Professor.

12. Assistant Law Officer appearing on behalf of respondents no. 3 & 4 as well as learned counsel for respondents no. 1 & 2 were completely unable to explain as to why publications in the slots of 3 years each only were being considered as against the UGC requirement of publications to be considered for the entire period since placement in stage 3. No Rule, Regulation or decision of the University or any other authority in this regard could be cited. On the other hand, no such Rule or Regulation could be framed in violation of the norms laid down by the UGC. It is thus manifest that the applicant has been wrongly declared ineligible for the post of Professor by taking into consideration his publications in slots of 3 years each only and not by considering his publications during the entire relevant period from the year 2006 to 2014.

13. For the reasons aforesaid, we allow this O.A. and quash the action of respondents in holding the applicant to be ineligible for consideration for the post of Professor. The applicant is held eligible for the said post. Accordingly respondents no. 3 & 4 are directed to call the applicant for interview for the post of Professor by promotion from the post of Associate Professor and the respondents are directed to take consequential action on the basis of the result thereof. It may be mentioned that vide interim order dated 23.12.2014 passed in the O.A., promotion made in the meantime, if any, was ordered to be subject to the final outcome of this O.A. Consequently, the promotion,

if any already made, shall be subject to the result of the interview of the applicant as well. The parties are left to suffer their own costs.

(JUSTICE L.N. MITTAL)
MEMBER(J)

(RAJWANT SANDHU)
MEMBER(A)

Dated: 08.02.2016

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