

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

Order reserved on 27.7.2016.

O.A.NO. 060/01169/2014 Date of order:- 29.07.2016

Coram: **Hon'ble Mr. Justice L.N.Mittal, Member (J)**
Hon'ble Mr. Uday Kumar Varma, Member (A).

1. Dr. Sukhdev Singh, Associate Professor, presently posted at Post Graduate Government College, Sector 46, Chandigarh.
2. Dr. Kamlesh Bajaj, Associate Professor, presently posted at Post Graduate Government College for Girls, Sector 42, Chandigarh.

.....Applicants.

(By Advocate :- Mr. 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, Sec-9 Chandigarh.
3. Panjab University, Chandigarh, through its Vice Chancellor, Panjab University Campus, Sector 14, Chandigarh.
4. Screening Committee through its Chairman, D.U.I. Panjab University, Chandigarh.
5. State of Punjab through its Secretary, Department of High Education, Main Secretariat, Punjab at Chandigarh.
6. Punjabi University, Patiala, through its Registrar, Patiala, District Patiala, Punjab.

...Respondents

(By Advocate : Mr. Aseem Rai, for respondents no.1 & 2
Ms. Nidhi Garg, For respondents no.3 & 4.
Mr. Rakesh Verma, for respondent no.5
None for respondent no.6).

22

ORDER

Hon'ble Mr. Uday Kumar Varma, Member (A):

Two applicants have jointly filed the present Original Application seeking the following relief:-

" a) Selection process for the post of Professor by way of promotion from the Associate Professor conducted by the respondent no.2 and 3 as per interview schedule circulated vide A-1 is to be quashed being in contravention, violative with UGC Regulations, 2002, MHRD notification 31.12.2008 and conditions of service notified by the Govt. of India regarding conditions of service of Union Territory of Chandigarh Employees Rules, 1992;

b) Direct the respondents no.1 to 4 to reprocess the selection process after including the names of applicants in selection process as per UGC guidelines and Government of Punjab notification as same is already adopted by the Administration of Union Territory, Chandigarh.

c) Direct the respondents no.1 to 4 to conduct the interview of the applicants to the post of Professor by way of promotion from the post of Associate Professor before the declaration of the result of the interview to be held on 2.1.2015 and onwards in the ongoing selection process".

2. Facts in brief are that both the applicants are working as Associate Professor in the colleges under the Chandigarh Administration, Chandigarh from January, 2006. The applicants have stated that the respondent nos. 1 & 2 have called the applications from the eligible Assistant Professors for their further consideration to the post of Professor. Both the applicants and 41 other applicants had applied on the prescribed proforma with the Chandigarh Administration. All the 43 applications including the applications of the present applicants were forwarded to Vice Chancellor, Panjab University, Chandigarh, for scrutiny and recommending the names of Associate Professors for further promotion/re-designation as Professor. The applicants have further stated that Respondents no.3 & 4 i.e. Panjab University, Chandigarh, vide its letter dated 17.12.2014

23

had rejected the case of the applicants on the ground that they are not having five publications to their credit. Hence the present OA.

3. Respondents no.1 & 2 have filed short reply by stating therein that as per provisions of Rule 6.5.1 & 6.5.2 of the UGC guidelines dated 30.6.2010, 10% of number of posts of Associate Professors in an under Graduate College shall be re-designated to the post of Professor. They have further stated that as per Government Arts & Science Colleges, Chandigarh (Assistant Professor Group 'A' Posts) Recruitment Rules, 2011, the mode of recruitment for filling 417 posts of Assistant Professor is 60% direct recruitment failing which by deputation and 40% by deputation failing which by direct recruitment. The Education Department, Chandigarh Administration requested the Principals of the Sector 42 & Sector 11, Chandigarh, for forwarding the cases of Associate Professors for further consideration. In response thereto, 43 applications on prescribed PBAS proforma were received and the applications were forwarded to Vice Chancellor, Panjab University, Chandigarh, vide letter dated 30.9.2014 for scrutiny of applications and recommend the names of Associate Professors for further promotion/re-designation as Professor. The Deputy Registrar(Colleges), Panjab University, Chandigarh, vide letter dated 17.12.2014 has intimated that the meeting of the Screening Committee was held on 17.11.2014 & 20.11.2014 and the case of the applicant, was not found eligible due to lack of 5 publications.

4. Respondents no.3 & 4 have filed their separate short reply wherein they have stated that the University has followed the guidelines of UGC Regulations, 2010 in its letter and spirit to short-list/screen the applicants for the purpose of promotion and the Panjab

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University has been following the instructions of the Director Higher Education, Chandigarh Administration, as and when communicated to Panjab University. The Screening Committee had not recommended the name of applicants on account of lack of 5 publications. They have thus prayed for dismissal of the OA.

5. Applicants have filed rejoinder to the short reply filed by respective respondents.

6. We have heard the learned counsel for the respective parties and have perused the material placed on record.

7. At the outset, the learned counsel for the applicants submitted that he is not pressing the relief in respect of applicant no.2 namely Dr. Kamlesh Bajaj as she stands promoted as Professor. Now his claim is only confined to applicant no.1 namely Dr. Sukhdev Singh.

8. The case put forward by the applicant in brief is that respondent no.4 i.e. Screening Committee of Panjab University, Chandigarh, has wrongly screened him as ineligible on the ground that he did not have five publications to his credit as was required under the relevant regulation. It is the contention of the applicant that such a requirement is not stipulated either in the Ministry of HRD Scheme dated 31.12.2008 (Annexure A-4) or the Panjab University notification dated 2.9.2009 whereby the Punjab Government had adopted this Scheme. He further argued that since these rules are also applicable to Union Territory, Chandigarh as per Annexure A-6, therefore, the Screening Committee has acted in contravention of the laid down rules and procedure in finding him ineligible for

25

consideration for the post of Professor on the ground that he was not having five publications to his credit. It is his contention that he should have been governed by the U.G.C. notification of 2000 which did not have this specific requirement of five publications.

9. The process of consideration for the post of Professor started when the Director Higher Education, U.T. Chandigarh, wrote to Vice-Chancellor, Panjab University, Chandigarh (Annexure A-3). This letter stipulates that UGC Regulation 6.5.1(i) provides that 10% of the number of posts of Associate Professors in under graduate Colleges shall be that of Professors and as there are 118 Associate Professors working in Government Arts & Science College, U.T. Chandigarh, 12 posts work out to be that of Professors. The letter further refers to clause 6.5.0 of University Grants Commission Regulation, 2010, that inter-alia provides that the selection process is to be conducted by affiliating University by receiving PBAS proformas from eligible Associate Professor based on seniority and three times in number of the available vacancies. Along with the letter, 43 applications on the UGC prescribed PBAS performa were sent to the Vice Chancellor, Panjab University, as Annexure-III. The Vice Chancellor was requested to get the applications scrutinized and recommend the names of Associate Professors for further promotion as Professor by constituting a Committee of experts as per the practice being followed in Panjab University. It was in response to this that the Panjab University set up the Screening Committee which scrutinized the applications and found the applicant who was included in the original list of 43 as ineligible on account of lacking five publications to his credit. It is quite clear from the above communication issued by the U.T. Chandigarh Administration to Vice Chancellor, Panjab University

26

that the selection process was to be conducted as per regulations of University Grants Commission, 2010, which undisputedly provides that for eligibility, five publications would be necessary.

10. We have carefully gone through the regulations referred to by the applicant. He has repeatedly emphasized before us that the Ministry of HRD Scheme dated 31.12.2008 which is the basis for career progression of University teachers following recommendations of 6th CPC, and which has been adopted by the Punjab Government and in turn are applicable to U.T. Chandigarh, no where lays down the requirement of five publications. However, the perusal of the Scheme issued by the Ministry of HRD (Annexure A-4) makes it clear that the Scheme merely lays down the broad guidelines and deals more specifically with the pay structure than the detailed eligibility criteria for such promotions. It may also be noted that the relevant clause i.e. 2(xiii) which has been repeatedly emphasized by the counsel for the applicant, also mentions that the eligibility will be subject to other conditions of academic performance as laid down by the UGC and if any by the University. Therefore, to say that the Scheme of HRD does not provide certain additional academic criteria as per UGC guidelines for the purpose of promotion is far from the factual position. Learned counsel for the applicant has also drawn our attention to a letter dated 10.10.2013 (Annexure A-11). It will be useful to quote the whole letter herein below:-

"It is informed that as per letter dated 6.9.2013 of DPCI (C), Punjab and order dated 30.7.2013 issued by the Govt. of Punjab which is endorsed by the DPI ©, Punjab vide Endst.No.736(S)(14/25-8-S(2) dated 2.9.2013(copy enclosed for ready reference) all cases for grant of senior scale/selection grade of those Asstt. Professors of Govt. Colleges, U.T. Chandigarh who are covered under UGC pay scales and become eligible on or before 30.7.2013 will be considered as per clause 10 of the notification dated 2.9.2009. Therefore, it has been decided that all cases of

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27

Career Advancement Scheme upto 30.7.2013 are to be considered and decided as per procedure that existed prior to coming into force of New UGC Regulation, 2010".

It is clear from this letter that first of all it is in respect of career advancement scheme which is not the same thing as 'Re-designation'. Secondly, it clearly says that the cases of career advancement scheme are to be considered and decided as per procedure that existed prior to coming into force of the new UGC Regulation, 2010. In the present case, the Screening Committee had met on 20.11.2014 and had not considered the cases where re-designation was to be granted prior to 30.7.2013. Therefore, the argument advanced by the applicants seems devoid of any merit.

11. The respondents in their written statement as well as at the time of arguments stated that the U.T. Chandigarh Administration requested the Panjab University to carry the selection of Professor as has been done in the past and the Panjab University has not violated any regulation or rules while carrying out this exercise. They emphatically stated that the UGC Regulation, 2010 were applicable as far as the selection is concerned which require that for eligibility, the candidate must have five publications to his credit. As the applicant was deficient in having five publications to his credit, therefore, the Screening Committee did not find him eligible.

12. It is evident from the discussions in the preceding paragraphs that the claim of the applicant that he should have been considered under Regulation, 2000 of UGC as far as his eligibility is concerned and the 2000 Regulation did not require having five publications as an eligibility criterion, is not correct and, therefore, not acceptable. The requisition for conducting the selection was made

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under 2010 Regulations and the University has rightly screened the applications in terms of eligibility laid down in UGC Regulation, 2010. As this regulation requires five publications as a necessary condition for eligibility, the applicant being deficient in it, was declared ineligible. The decision of the Screening Committee in holding the applicant ineligible seems perfectly in order and does not suffer from any legal infirmity. We find that the case of the applicant is devoid of any merit and deserves to be dismissed.

13. Accordingly, we are not inclined to interfere in this matter. The OA being devoid of merit is dismissed, with no order as to costs.

(UDAY KUMAR VARMA)
MEMBER (A).

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

Dated:- July 29, 2016.
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