

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

ORIGINAL APPLICATION NO.063/00550/2018

Chandigarh, this the 14th day of May, 2018

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**CORAM: HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MS. P. GOPINATH, MEMBER (A)**

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Binesh Bhatia, aged 28 years, S/o Sh. Ram Dass Bhatia, R/o Village Kulhan, Post Office Matla, Tehsil Jhandula, District Bilaspur (H.P.) (Group-B).

....APPLICANT

(Present: Mr. R.K. Sharma, Advocate)

VERSUS

1. Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi, through its Secretary.
2. Union Territory, Chandigarh through its Administrator, Sector 7, Chandigarh.
3. Education Secretary, Union Territory, Sector 9, Chandigarh.
4. Director, Higher Education, Chandigarh Administration, Sector 9, Chandigarh.

....RESPONDENTS

ORDER (Oral)

HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J):-

The contour of the facts and material, which needs a necessary mention for the limited purpose of deciding the core controversy involved in the instant Original Application (OA), and emanating from the record, is that, Union Public Service Commission (for brevity UPSC) (respondent no.1), invited online recruitment application for recruitment by selection to the various

posts in different departments, vide advertisement published in Employment News 8-14.06.2013 (Annexure A-1). After short listing, the candidates for the post of Assistant Professor were called for interview for 15.05.2018, vide order dated 05.05.2018 (Annexure A-2) by the UPSC.

2. The case set up by the applicant, in brief, in so far as relevant, is that delayed recruitment process is being initiated and continued inviolation of DOPT instructions dated 11.01.2016 (Annexure A-4). As such, the applicant has preferred the instant OA, challenging the recruitment process on the following grounds:-

“(I) That admittedly vacancy in question is a public office and is governed by the Statutory Recruitment Rules and also governed by the instructions issued by the Nodal Ministry i.e. Department of Personnel and Training including instructions dated 11.01.2016 (Annexure A-4), which are binding on all the departments and respondent no.1 and as such, starting recruitment process after gap of five years is wholly unjustified, illegal and liable to be set aside.

(II) That even otherwise with the passage of time many of the candidates must have settled somewhere and they could not be victim of creating an atmosphere of uncertainty and the non-consideration of those who have become eligible between 2013 and 2018 amounts denial of opportunity to fresh candidates who have become eligible in the meantime and as such, action of the respondents is wholly unjustified and liable to be set aside.

(III) That right of consideration to a public post is a right of every eligible person, which cannot be denied and discriminating in the said right is hit by the provisions of Article 14 and 16 of the Constitution of India.

(IV) That action is harsh, arbitrary, discriminatory and violative of DOPT instructions and is not legally sustainable in the eyes of law.”

3. On the strength of the aforesaid grounds, the applicant seeks to quash the impugned recruitment process to be finalized for the post of Assistant Professor, (Defence Studies) in Government Arts and Science Colleges, Chandigarh Administration, in the manner, indicated hereinabove.

4. Having heard the learned counsel for the applicant, having gone through the records with his valuable assistance, and after considering the entire matter, we are of the firm view that there is no merit, and the instant OA deserves to be dismissed, for the reasons mentioned herein below.

5. Ex-facie the main arguments of learned counsel for the applicant that although recruitment process was delayed, on account of litigation, but since there was no stay by any court, so, the impugned recruitment process is against the DOPT instructions (Annexure A-4) are neither tenable nor the observations of Hon'ble Apex Court in cases ***Union of India versus K.P. Joseph and Others***, 1973 (1) SLR 910, wherein it was observed that administrative order can confer rights and impose duties and ***B.S. Minhas versus Indian Statistical Institute and others***, 1983 (3) SLR 150, wherein it was observed that it was obligatory on the part of the authority to follow the bye-laws of the society.

6. Possibly no one can dispute with regard to the aforesaid observations, but the same would not come to the rescue of the applicant in the instant controversy, because none of the situation mentioned therein have arisen in the present case.

7. What cannot possibly be disputed here is that the UPSC has advertised the various posts in different department in the month of June 2013, vide advertisement published in Employment News 8-14.06.2013 (Annexure A-1). Having short listed, the candidates for the post of Assistant Professor were called for interview for 15.05.2018, vide order dated 05.05.2018 (Annexure A-

2) by the UPSC. No doubt, instructions dated 11.01.2016 (Annexure A-4) provides that concerned department should ensure that entire recruitment process including and starting from the advertisement conducting of written examination or holding of the interview **may be** completed within six months.

8. Be that as it may, but in the instant case, it is not a matter of dispute that the delay occurred on account of pendency of litigation in the courts. The pendency of litigation in respect to the impugned selection process, to our minds is sufficient to explain the delay in completing the impugned process of recruitment, notwithstanding the fact that no stay of recruitment was granted by any court. Moreover, the relevant date to test the eligibility of a candidate, is the last date of applying for application for the post, in pursuance of the advertisement (Annexure A-1). Admittedly, the applicant was not eligible for the pointed post at the time of the advertisement. The mere fact that during the course of recruitment process, he acquired the eligibility qualification, *ipso facto*, is not a ground much less cogent to quash the entire selection process as contrary urged on behalf of the applicant. In case wishful and speculative prayer of the applicant is accepted as such, in that eventuality, it will give rise to a Pandora's Box of litigation, because many many other candidates might have acquired the eligibility criteria during the course of selection process, which is not legally permissible. Therefore, it is held that no valid ground to quash the impugned recruitment process is made out, in the obtaining circumstances of the case.

9. In the light of the aforesaid prismatic reasons, as there is no merit, so the instant OA is hereby dismissed as such, with no order as to costs.

(P. GOPINATH)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)

Dated: 14.05.2018.

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