

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CIRCUIT BENCH AT PORT BLAIR

O.A. No. 351/ 96 /A&N/2018

1. Dr Prashant Shrivastava
Assistant Professor (English)
Dr BR Ambedkar Institute of Technology
S/o Shri Ram Kishor Shrivastava
Resident of Royal Colony
Dollygunj, Port Blair
South Andaman

2. Dr Satish Kumar Singh
Assistant Professor (Chemistry)
Dr BR Ambedkar Institute of Technology
S/o Shri Sheshmani Singh
Resident of Loknath Colony
Dollygunj, Port Blair
South Andaman

...Applicants

-VERSUS-

1. The Union of India,
Through the Secretary
Ministry of Home Affairs

Govt. of India, Central Secretariat

North Block, New Delhi-110 001

2. The Union Of India,
Ministry of Human Resource Development,
Shastri Bhawan, Dr Rajendra Prasad Road,
New Delhi
3. The Pondicherry University
Through its Registrar
Bharat Ratna Dr. B.R. Ambedkar
Administrative Building,
R.V. Nagar, Kalapet
Puducherry - 605014
4. The Chairman
All India Council for Technical Education
Nelson Mandela Marg
Vasant Kunj, New Delhi-110070
5. The Lt. Governor
(Administrator)
Andaman & Nicobar Islands
Raj Niwas, Port Blair
6. The Chief Secretary,
Andaman & Nicobar Administration
Port Blair 744 101

7. The Secretary (Hr. Education),

Andaman & Nicobar Administration

Port Blair 744 101

8. The Principal,

Dr BR Ambedkar Institute of Technology

Pahargaoon, Port Blair

..... Respondents

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A/351/96/AN/2018

Date of order: 29/3/2019

Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr.(Ms) Nandita Chatterjee, Administrative Member

PRASANT SRIVASTAVA & ANOTHER

VS.

UNION OF INDIA & OTHERS

For the applicant : Mr. G. B. Kumar, counsel
For the respondents : None

ORDER

Bidisha Banerjee, Judicial Member

Heard Id. counsel for both sides.

2. A notification ^{was} published in Employment News 10th -16th May, 2014(Annexure A/2) of UPSC for the post of Assistant Professor English/Chemistry in terms of the Recruitment Rules (Annexure A/1).

3. The applicant No.1 was offered appointment vide letter dated 08.09.2015(Annexure A/4) to Group 'A' Gazetted post of Assistant Professor (English) in Dr. B.R. Ambedkar Institute of Technology, Pahargaoon, Port Blair under A&N Administration, under terms and conditions specified therein which included the following:-

"17. You will be required to conduct theory and practical classes in relevant subject in different Programmes offered by this institute in both Degree and Diploma courses."

4. The applicant No.2 was offered appointment vide letter dated 18.03.2016 (Annexure A/5) on similar terms.

5. They are aggrieved as they are being utilised only against diploma course which violates Pondicherry University Guidelines(Annexure A/16) that regular Faculty of degree courses should not be used to teach Diploma Course and faculty of Diploma Course should not be used to teach B. Tech. Courses and Degree and Diploma programmes should be segregated clearly.

6. Their repeated prayers to remove the clause in their offer of appointment has been failed.

7. To refute their claim that they are not supposed to teach diploma courses, the respondents in their reply have categorically stated and averred as follows:-

(a) Dr. B.R. Ambedkar Institute of Technology (BRAIT) offers 15 multi disciplinary programmes which includes three degree engineering programmes, six diploma engineering programmes, three hotel management programmes and three maritime programmes. In addition the institute offers various skill development programmes. The Institute is functioning in an integrated manner offering all the above programmes to ensure optimum usage of resources with respect to infrastructure, teaching and non-teaching staffs. Dr. B.R. Ambedkar Institute of Technology came into existence as a result of up-gradation of Dr. B.R. Ambedkar Govt. Polytechnic to an Engineering college and renaming as Dr. B.R. Ambedkar Institute of Technology vide MHRG O.M. No.4-10/2006-TS-II dated 29th July 2009 read with Gazette Notification of A&N Administration. Consequent to PIL file by one Mr. Abdul Samad, Hon'ble High Court directed MHA to constituted an High Power expert committee to carry out feasibility of establishing an

engineering college and an medical college in A&N Islands. The Expert Committee after field visit and interacting with various PRI's made following recommendation:-

- (i) At present Dr. B.R. Ambedkar Govt. Polytechnic offers five Diploma programmes and two Maritime Courses and the Second Govt. Polytechnic offers 2 diploma programmes. Dr. B.R. Ambedkar Govt. Polytechnic can be up-graded to offer degree courses in such areas as Computer Engineering & IT and Electronics & Communication Engineering, other degree, diploma and short term training programmes relevant to the regional needs be introduced in a phased manner depending on man power requirements.
- (ii) The existing academic and governance model of centrally funded Sant Longwal Institute of Technology(SLIET)and North East Regional Institute of Technology (NERIST) may be adopted with suitable region-specific modifications.
- (iii) Upgrading of infrastructure in related areas and creation of adequate post of faculty and support staff to be undertaken to meet the requirements of AICTE.
- (iv) Affiliation, tie up and networking being taken up with some reputed institutions in the mainland for faculty and teaching-learning process support;
- (v) Latest technology to be adopted for expert and specialized lecturers through video conferencing with resource institutes.
- (vi) Initially intake could be up to 60 per discipline, with provisions for lateral entry from the diploma programmes as per AICTE guidelines.

The above recommendation was submitted to Hon'ble High Court in compliance to Hon'ble High court judgment/order dated 15.06.2006. The Hon'ble High Court directed to implement the report vide order dated 05.08.2008 and A&N Administration to ensure that the implementation is made within six months. The SFC proposal for starting of Engineering College was in line with the recommendation of the Expert Committee (i.e. to upgrade the institute to offer degree courses) and set to MHRD with copy to Planning Commission and MHA. In

response to our SFC Proposal, the Planning Commission gave in-principle approval for setting up of an Engineering college.

(b) The agenda note of SFC Proposal submitted by the Additional Secretary MHRD has clearly mentioned that the name of the existing polytechnic is proposed to be changed from Dr. B.R. Ambedkar Govt. Polytechnic to Dr. B.R. Ambedkar Institute of Technology and the existing diploma programmes shall co-exist with the degree programmes. The SFC meeting held under the Chairmanship of Secretary (HE), MHRD, GOI also approved the upgradation with co-existence of both degree and diploma programme. Consequent to the upgradation of Polytechnic to Engineering college offering multi disciplinary programmes, MHRD sanctioned only 24 teaching posts and directed that existing non-teaching and other support staffs should be utilized for conducting lab practical and other support services. Accordingly, A&N Administration took necessary action to frame the Recruitment Rule (RR) as per the laid down norms of educational qualification prescribed by AICTE and sent requisition to UPSC for undertaking the selection of Assistant Professor for Dr. B.R. Ambedkar Institute of Technology. Since Dr. Ambedkar Institute of Technology is an integrated institute offering multi disciplinary diploma and degree programmes. The selection process was undertaken by UPSC for recruitment of Assistant Professor for engineering subjects as well as non-engineering subjects and the vacancy notice for Assistant Professor for English subject is mentioned the incumbent Duties as follows:

"For Engineering Subjects:

Conducting Theory / Practical classes for UG and Diploma engineering students after framing lesson plan. Continuous final assessment / guiding students, in project / seminar / paper Publication,

continuing education & Placement Assisting in all other activities related to department / Institute. HQ: Port Blair, Andaman and Nicobar Islands.

For Non-Engineering Subjects (Humanities and Science-English, Physics, Chemistry and Maths):

Teaching both undergraduate and graduate students within their fields of expertise conduct seminars and oversee the students lab works, conduct tests and advise students, prepare Lessons, exercise arrangements, curriculum development and Development of resource materials bringing in innovation in technician education evaluation public relations and interactions with opportunity. counselling students for continual improvement assigning administration of the institute and in extension services, publication of their works/research findings in academic journals / books and any other assignments as he entrusted to them by the superior.

HQ: Port Blair, Andaman and Nicobar Islands"

Thus duties for the post of Assistant Professor Engineering subject has been mentioned related to programmes which are being offered by the Institute, however while writing the duties for Assistant Professor – Non Engineering (Humanities and Sciences – English, Physics, Chemistry and Math's) a typographically error crept in and instead of mentioning UG and diploma it was mentioned as UG and Graduate.

(c) Further that, the Institute do not offer any programmes for graduate students hence mentioning conduction of classes for graduate students against duties is illogical.

After completion of selection process, offer of appointment were issued to the selected candidate recommended by UPSC for both Assistant Professor for engineering subjects and Assistant Professor Non engineering subjects (Humanities and Sciences).

(d) In the offer of appointment of Assistant Professor engineering subjects, the clause related to teaching degree and diploma was incorporated while for non engineering subjects this clause was inadvertently missed out for appointment of initial two faculty members for Mathematics and Physics.

The above typographical error went up-noticed by the authorities at Dr. B R Ambedkar Institute of Technology and it was only discovered when the newly appointed Assistant Professor in Physics and Mathematics showed their reluctance to take classes of diploma subjects, since it was neither mentioned in the vacancy notice published by the UPSC nor indicated in the offer of appointment.

(e) In order to rectify the above mistake the authorities of Dr B R Ambedkar Institute of Technology took approval of appointing authority and incorporate a Clause No. 17 which reads as follows while issuing offer of appointment for the post of Assistant Professor (Maths and English):

"You will be required to conduct theory and practical classes in relevant subject in different programmes offered by this Institute in both Degree and Diploma course." (Annexure – R- 10).

The offer of appointment is issued to Dr Satish Kumar, Assistant Professor (Chemistry) and Dr Prashant Shrivastava, Assistant Professor (English) at Clause No. 17 and accepted the offer of appointment.

(f) The Pondicherry inspection team while carrying out inspection made certain observation stating that the degree and diploma infrastructure as well as teaching staff has to be separate, however consequent to advisory issued by MHRD that "the up-gradation Dr B Ambedkar Government Polytechnic to an engineering college and for starting of three engineering programmes. The name of the polytechnic was changed from Dr. B R Ambedkar Government Polytechnic to Dr B R Ambedkar Institute of Technology and the diploma programmes shall co-exist with the degree programmes. The above approval is line with the existing norms of AICTE granting approval to Technical Institutes."

(g) Consequent to the above advisory MHRD has not been raising the issue of separate infrastructure. As regards, faculty recruited for degree programmes taking diploma classes, the authorities at Dr B R Ambedkar Institute of Technology are giving the degree classes to all the Assistant Professor as first preference.

It has been found that the weekly teaching load for Assistant Professor (English, Physics and Chemistry are much less compared to the AICTE norms in odd / even semester hence they are being given subjects for diploma and post diploma students rather than engaging guest lecturer which may attract audit objection.

(h) The Assistant Professor for the humanities and sciences made representation to Chief Secretary, A & N Admn. requesting to withdraw clause no. 17 from the offer of appointment. The matter was examined by the A & N Administration and they have communicated that "request has not been considered by the competent authority as such you are directed to adhere with all the terms and conditions of the offer of appointment and not to submit such kind of representations in future." **Annexure – R-13**

(i) The summary of the teaching load of Dr Prashant Shrivastava, Assistant Professor (English) and Dr Satish Kumar, Assistant Professor (Chemistry) are as under:

**DETAILS OF SUBJECT ALLOCATION 2017-18
ODD/EVEN IN SUBJECT – CHEMISTRY**

(Dr. SATISH KUMAR SINGH)

Semester Details	Minimum Teaching Load /	Teaching Load / Week for	Additional Classes allotted	TOTAL
Odd Semester	16 Hrs	13.75 Hrs	-	13.75 Hrs
Even Semester	16 Hrs	11 Hrs	3.66 Hrs	14.66 Hrs

**DETAILS OF SUBJECT ALLOCATION 2017-18
ODD/EVEN IN SUBJECT – ENGLISH**

(Dr. PRASHANT SHRIVASTAVA)

Semester Details	Minimum Teaching Load /	Teaching Load / Week for	Additional Classes allotted	TOTAL
Odd Semester	16 Hrs	9.1 Hrs	6 Hrs	15.1 Hrs
Even Semester	16 Hrs	8 Hrs	7 Hrs	16 Hrs

aa. Both the above faculty members were allotted teaching load in diploma to reach the minimum teaching load specified as per AICTE guidelines but they have not been taking the classes despite repeated instruction which is jeopardizing students interest. However at the end of the semester the classes has been given to other teacher to complete the syllabus.

(j) The respondents have further contended that AICTE vide its notification dated 5th March 2010 Clause No 4 (page No. 35 of Gazette Notification) (pay scale service condition and qualification for teachers and other academic technical institution regulation 2010) stated that "Diploma Institution is also considered equivalent to experience in degree level institutions at appropriate level and as applicable. However, qualifications as above shall be mandatory.

8. Having perused the terms of offer of appointment extracted supra, and the facts pleaded and materials on record, we discern that the applicants' grievances are unsubstantiated and, therefore, their claim is untenable. Having accepted the terms of offer with their eyes wide open they cannot be allowed to turn absolute volta face to deny any such embedded terms or seek deletion of such clause from the offer of appointment. They are estopped by their conduct to claim otherwise.

9. Accordingly the O.A. fails and is dismissed . No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member