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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) No. 8419/2011

3rd July, 2013

MAYA JOHN & ANR.

.....Petitioner

Through: Mr. Sunil Mathews and Mr. Aditya Shukla,
Advocates.

VERSUS

UNIVERSITY OF DELHI & ORS.

..... Respondents

Through: Mr. Saurabh Banerjee, Adv. for R-1 to R-4.

Ms. Mamta Tiwari, Adv. for Mr. Amitesh
Kumar, Adv. for R-5/UGC .

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not? **Yes.**

VALMIKI J. MEHTA, J (ORAL)

1. This writ petition is filed by two petitioners Ms. Maya John and Ms. Zainab Hyder Razavi. Petitioners who are pursuing Ph.D degrees were appointed as Teaching Assistants by the respondent no.1-University of Delhi. Since the terms and conditions of both the petitioners are the same, it would suffice to refer to the terms and conditions of appointment of the petitioner no.1. The terms and conditions are contained in the letter dated 20.5.2009 of the University. Paras 1,2, 3,5,6 and 9 of the appointment letter are relevant and the same read as under:-

- “1. The Teaching Assistantship will be initially for a period of one-year **w.e.f the date of registration in Ph.D.** and will be extendable by up to three years on year-to-year basis subject to an annual performance review by a committee constituted for this purpose. This will be for a maximum period of four years in all.
2. The above award will be governed under the University Teaching Assistantship Scheme, 2006 of the University of Delhi as amended from time to time.
3. During the period of Teaching Assistantship, you will be entitled to receive a stipend of Rs.25,000/- per month. In addition to the above, you will also be entitled for a contingency grant of Rs.10,000/- (for Social Sciences subject)/Rs.25,000/- per annum (for Science subject) subject to the condition that you are not receiving any other assistance or fellowship under any scheme.
5. During the period of teaching assistantship, you will be compulsorily required to be registered for Ph.D programme of the University subject to the conditions governing therein, in case not already registered.
6. During the period of teaching assistantship, besides your research work, you will be required to assist in the academic work including tutorials, evaluation of test papers, internship, seminar, symposia, demonstration/supervision of other assignment or field work or any allied work for a maximum of 6 hours per week.
9. You may note that this Assistantship does not imply any assurance or guarantee for subsequent employment by the University of Delhi or at the Department/Institution/Center where you pursue the assistantship.
 - a. If the terms and conditions for Teaching Assistantship mentioned above are acceptable, you should intimate your acceptance at the earliest and report for joining within two weeks of the issue of this letter and produce the following:
 - b. Original certificates of your educational qualifications experience and age (Caste certificate if you belong to the reserved category) as mentioned in your application.”

c. A relieving certificate (in case you are already employed).”

2. A reference to para-1 of the appointment letter shows that the appointment indubitably is only year to year, though, it is extendable after each year upto a maximum period of four years. Para-2 makes it clear that the terms and conditions of the Award i.e appointment as Teaching Assistants will be governed by the Scheme of 2006, but as amended from time to time i.e amendments can be made by the respondent no.1 of the University Teaching Assistantship Scheme, 2006. Para-6 shows that the petitioners can be involved in teaching work. Para-9 makes it clear that granting of Teaching Assistantship does not guarantee subsequent employment with the respondent no.1-University.

3. The respondent no.1-University by its notification dated 10.6.2010 amended the University Teaching Assistantship Scheme, 2006 and required the University Teaching Assistants to clear the UGC NET examination within two years from 1.6.2010 or within two years from the date of joining as Teaching Assistants. Petitioners claim that this amendment cannot be made because according to the petitioners this would amount to changing of Rules of the Scheme midway and the amended term is beyond the terms and conditions contained in the appointment letter dated 20.5.2009. Great stress is laid on behalf of the petitioners to para-1 of the appointment letter reproduced above to show that actually the period of appointment

is four years and not year to year. It is argued that for registering as a Ph.D Programmer, there is no requirement of UGC (Minimum Standards and Procedure for Awards of M Phil/Ph.D Degree) Regulation 2009 of having NET qualifications. It is argued that UGC letter of August, 2009 requires clearing of NET qualification only for those persons who seek appointment as Teachers or Lecturers or Professors with the University of Delhi and such requirement of clearing NET qualification cannot apply to Teaching Assistants who do not seek appointment as Teachers/Lecturers/Professors with the respondent no.1-University of Delhi. Regulation 9 (i) & 6 of the 2009 Regulations read as under:-

9.(i) All Universities, Institutions, Deemed to be Universities and Colleges/Institutions of National Importance shall admit M.Phil, doctoral students through an Entrance Test conducted at the level of individual University, Institution, Deemed to be University, College/Institution of National Importance. The University may decide separate terms and conditions for those students who qualify UGC/CSIR(JRF) Examination/SLET/GATE/teacher fellowship holder or have passed M.Phil Programme for Ph.D. Entrance Test. Similar approach may be adopted in respect of Entrance Test for M.Phil Programme.

6. All Universities, Institutions, Deemed to be Universities and Colleges/Institutions of National Importance shall lay down the criteria for the faculty to be recognized as Research Supervisor both for M.Phil and Ph.D.Programme.”

4. Petitioners are also challenging the action of the respondent no.1 in reducing an amount of ₹6900/- per month from their monthly stipend, and which amount was deducted by the respondent no.1 as the petitioners were occupying a room in the University Hostel.

5. In my opinion, the petitioners would be correct in contending that the UGC letter of August, 2009 clarifying the requirement of NET qualification applies only for those persons who are working as teachers in the University, however, that is not the issue because the issue really is as to the requirements to be fulfilled for extension to be granted each year for appointment as a Teaching Assistant. As already stated above, the Teaching Assistantship has to be renewed yearly and at that stage by virtue of para-2 of the appointment letter the University Teaching Assistantship Scheme, 2006 as amended from time to time will be applicable. It cannot be disputed (and in fact the same is challenged) by the petitioner that the University Teaching Assistantship Scheme, 2006 was amended by the notification dated 10.6.2010 requiring the Teaching Assistants to clear the UGC NET examination within two years from 1.6.2010. Surely, the employer can always decide at the time of extension of a tenure a particular requirement from employees and in this regard no doubt remains whatsoever when we refer to para-2 of the appointment letters of the petitioners and by which the University Teaching Assistantship Scheme, 2006 can be amended and the amended scheme as extant will be applicable at the time of granting of the yearly extension. There is also no dispute that the petitioners have not cleared the NET examination within a period of two years from 1.6.2010. Therefore, once the amended requirement of the University Teaching Assistantship Scheme, 2006, and as amended by the notification dated 10.6.2010, is not complied with by the petitioners,

the respondent no.1 was fully justified in refusing to grant yearly extension to the petitioners. Petitioners therefore have not been granted the yearly extension which came up for renewal after two years from 1.6.2010. The respondent no.1 is quite clearly justified in doing so as I do not find any merit in the petition whereby the notification dated 10.6.2010 of the respondent no.1- University is challenged and which required even Teaching Assistants to clear the UGC NET examination within two years from 1.6.2010.

6. The argument urged on behalf of the petitioners, relying upon Regulation 9(i) of the 2009 Regulations, that NET qualifications cannot be included except at the start of the Ph.D course is an argument based on the presumption that the terms contained in the appointment letter cannot be changed whereas (and as already stated above) para-2 of the appointment letter itself provided for applicability of the 2006 Scheme duly amended from time to time and thus surely additional qualification by amending the 2006 Scheme could always be required at the time of renewal. Regulation 6 of the 2009 Regulations also provide for this.

7. So far as the challenge to the reduction of an amount of ₹ 6,900/- as hostel room charges, I cannot agree with the arguments of the petitioners that the petitioners will get a lumpsum amount of ₹ 25,000/- pm without any deduction for the hostel room charges. The very fact that the amount to be paid to the petitioners was a consolidated amount of ₹ 25,000/- per month (originally) and which subsequently was

enhanced by the notification dated 10.6.2010 to ₹ 30,000/- per month, shows that the same is one lumpsum consolidated amount without any further benefit to the Teaching Assistants such as the petitioners. If the petitioners are getting other benefits from the University i.e a hostel room/accommodation, the petitioners are very much liable to pay the charges for using the accommodation because neither the appointment letter nor the notification dated 10.6.2010 state that the Teaching Assistants in addition to the fixed stipend per month will also get accommodation. Once accommodation is an extra benefit, surely the petitioners are liable to pay charges for the accommodation being the hostel room. If the petitioners did not want to use the hostel room they were always free to vacate the same, however, the petitioners cannot claim that they will not pay charges for the same.

8. The writ petition is thus dismissed, leaving parties to bear their own costs.

JULY 03, 2013
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VALMIKI J. MEHTA, J.