

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI
AND
HON'BLE SRI JUSTICE MANOJ KUMAR TIWARI

01ST SEPTEMBER, 2023

WRIT PETITION (S/B) No. 402 OF 2023

Dr. (Mrs.) Kusum Arunachalam and others.

...Petitioners

Versus

Doon University and others.

...Respondents

Counsel for the petitioners. : Mr. M.C. Pant, learned counsel.

Counsel for respondent nos. 1 to 3. : Mr. Rajendra Dobhal, learned Senior Counsel assisted by Mr. Shubhang Dobhal, learned counsel.

Counsel for respondent no. 4. : Mr. K.N. Joshi, learned Deputy Advocate General for the State of Uttarakhand.

Counsel for respondent no. 6. : Ms. Anjali Bhargava, learned counsel.

Counsel for respondent no. 7. : Mr. Vijay Bhatt, learned counsel.

JUDGMENT : (per Sri Vipin Sanghi, C.J.)

The petitioners have preferred the present

Writ Petition to seek the following reliefs :-

“i. Issue writ, rule or direction in the nature of declaration, or quo-warranto against the respondent No.5 showing his authority to hold the post of Associate Professor of the Don University, Dehradun and to remove him forthwith from the post of Associate Professor and declare his appointment as illegal, arbitrary, Unconstitutional and against the statutory provisions as per UGC mandate and based on fraud and every action or decision taken by him be declared as void, ab

initio, illegal and nullity with all consequential effects keeping in view the facts highlighted in the body of petition after calling the entire record from the respondents along with its effect and operation also, keeping in view the facts highlighted in the body of the petition or to mould the relief appropriately.

ii. Issue writ, rule or direction in the nature of mandamus commanding to the respondents not to give any further promotion/or to assign any post to the private respondent no.5 of Professor or any post involves a high position or responsibility and authorization for taking any policy decision

iii. Issue writ, rule or direction in the nature of mandamus to fix the responsibility of EC members for taking the decision against law and allowing an ineligible person to continue to hold the post of Associate Professor despite the fact that Enquiry Committee has given clear cut recommendations that respondent no. 5 is not eligible to hold the post of Associate professor.

iv. Issue writ, rule or direction in the nature of mandamus directing the UGC to take all steps for monitoring every appointment and every policy decision of the Doon University and its officers and to verify the same whether the same fulfils the UGC norm or not also to ensure that UGC Grant shall not be misuse or misutilized by any unauthorized persons, keeping in view the facts highlighted in the body of the petition.

v. Issue writ, rule or direction in the nature of mandamus to direct the respondent to setup an inquiry through an independent agency under the monitoring of the Hon'ble Court to find out the persons responsible for such type of illegal act and to fix the liability upon the same and also to recover the public money from the erring persons."

2. The present Writ Petition has been preferred by the petitioners on the premise that respondent no. 5,

against whom this Writ Petition is directed, was appointed in July, 2010 on the post of Associate Professor in the Doon University, allegedly in contravention of the UGC Rule for counting of past services.

3. The petitioners claim that on the day of his appointment, respondent no. 5 was not eligible to be appointed on the post of Assistant Professor, because he was not having the mandatory UGC NET qualification. After seven long years of the appointment of respondent no. 5, the petitioners approached the University, and this Court. This Court directed the Chancellor to resolve the complaint expeditiously. The petitioners state that, in continuation of the said direction, the University Administration constituted a three member Inquiry Committee, and one Fact Finding Committee, comprising of the Executive Council, Members, Registrar and an Officer of the UGC. A report was submitted to the Executive Council, which, in its 26th Meeting, passed a resolution against respondent no. 5.

4. The petitioners further state that the Executive Council, in its meeting held on 07th - 08th

June, 2017, considered the findings of the reports aforesaid, and took a lenient view of the matter, considering the age of respondent no. 5, and unanimously resolved to reduce the rank of respondent no. 5 from Associate Professor to Assistant Professor. The petitioners state that respondent no. 5 challenged the said decision by filing Writ Petition (S/B) No. 403 of 2017 before this Court, and this Court quashed and set aside Order No. 492/221/R-DU/2017 dated 19.07.2017, reducing the rank of respondent no. 5 from Associate Professor to Assistant Professor. Consequently, the Executive Council, in its meeting held on 16.01.2019, restored the rank of respondent no. 5 and reinstated him in the post of Associate Professor.

5. Pertinently, when the order dated 22.10.2018 was passed by the Division Bench in Writ Petition (S/B) No. 403 of 2017, the petitioners herein were also present. The petitioners herein had moved an application for intervention, which the Division Bench did not allow.

6. In the aforesaid background, it appears to us that the present Writ Petition is a complete abuse of the

process of the Court. The petitioners were represented before this Court, when the order dated 22.10.2018 was passed, restoring the rank of respondent no. 5. The issue, whether the initial appointment of respondent no. 5 was as Associate Professor, fell for consideration before the Court. The Court – despite the said issue being raised, allowed the Writ Petition, and did not find merit in the submission of the petitioners herein. If the petitioners herein had any grievance against the order dated 22.10.2018, it was open to the petitioners to assail the said order before the Supreme Court. In our view, the petitioners are again seeking to rake up the same old issues, with regard to the experience earned by respondent no. 5, for the post in question.

7. Pertinently, it is not the petitioners' case that respondent no. 5 did not have any past teaching experience. The only issue raised by the petitioners, was with regard to the nature of the said teaching experience, namely, that it was earned on *ad hoc* basis, and not on regular basis. In our view, with the passage of time, that issue has now lost its significance.

8. We, therefore, dismiss the present Writ Petition, leaving the parties to bear their respective costs.

9. Consequently, pending application(s), if any, also stand disposed of accordingly.

VIPIN SANGHI, C.J.

MANOJ KUMAR TIWARI, J.

Dt: 01ST SEPTEMBER, 2023
Rahul