

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.15815 of 2025

Judgment reserved on:22.12.2025

Date of Decision:24.12.2025

Dr. Rakesh Kumar Kapila

.....Petitioner

Versus

State of Himachal Pradesh & others

... Respondents

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹ Yes.

For the Petitioner: Mr. Sanjeev Bhushan, Senior Advocate with Mr. Sparsh Bhushan, Advocate.

For the Respondents: Mr. Anup Rattan, Advocate General with Mr. Rajan Kahol and Mr. Vishal Panwar, Additional Advocate Generals and Mr. Ravi Chauhan, Deputy Advocate General, for the respondent-State.

Mr. Janesh Mahajan, Advocate, for respondent No.2.

Mr. Peeyush Verma, Senior Advocate with Mr. Anuj Bali, Advocate, for respondent No.3.

Mr. Dilip Sharma, Senior Advocate with Mr. Manish Sharma, Advocate, for respondent No.4.

Sandeep Sharma, Judge(oral):

Precisely, the question, which needs to be determined in the case at hand, is that “whether the expression “*amongst the Senior faculty members of the University*” as used in Section 24(5) of the Himachal Pradesh University of Agriculture, Horticulture and Forestry

¹ Whether the reporters of the local papers may be allowed to see the judgment?

Act, 1986 (**hereinafter referred to as the 'Act'**) would necessary mean senior most faculty member or one of the senior faculty members of the University."

2. Precisely, the case of the petitioner, who at present is working as Professor in the respondent-University, is that he being the senior most Professor, ought to have been given temporary charge of the post of Vice-Chancellor of Chaudhary Sarwan Kumar Himachal Pradesh Krishi Vishvavidalaya, Palampur, District Kangra, till the time regular Vice Chancellor is appointed and in no circumstance, respondent No.4, who is admittedly junior to him in the seniority of Professors, could have been assigned the charge of the post of Vice-Chancellor by the worthy Chancellor, while exercising powers under Section 24(5) of the Act.

3. For having bird's eye view, the relevant facts, as emerge from the pleadings adduced on record by the respective parties, are that the petitioner is presently working as Dean, Post Graduate Studies, in the respondent-University and as per the seniority list maintained by the respondent-University, he is senior to respondent No.4, who is also Professor and at present is working as Dean, Dr. G.C.Negi College of Veterinary and Animal Sciences, Chaudhary Sarwan Kumar Himachal Pradesh Krishi Vishvavidalaya, Palampur, District Kangra, Himachal Pradesh. The name of the petitioner figures

at Sr. No.68 of the seniority list, whereas name of respondent No.4 figures at serial No. 80. Since Professor at serial No.67 has superannuated, petitioner can be said to be at serial No.1 in the seniority list. Similarly, respondent No.4, on account of superannuation of number of Professors, is at present at serial No.2 in the seniority list of Professors.

4. In terms of Section 24 of the Act, Worthy Chancellor appointed a regular Vice-Chancellor in the month of August, 2020. Though, in terms of Section 25(3) of the Act, a regular Vice-Chancellor can continue in the office until his successor is appointed, however, in the case of Vice-Chancellor, who was appointed in the month of August, 2020, neither his successor was appointed nor extension was granted. Worthy Chancellor, while invoking power under Section 24(5) of the Act, appointed one Dr. D.K. Vatsa as Vice-Chancellor of the respondent-University on officiating basis, whose name, at the relevant time, figured at serial No.12 of the seniority list **(Annexure P-2)**. Dr. D.K. Vatsa superannuated on 31.07.2024 and thereafter, one Dr. Naveen Kumar was given charge of the post of Vice-Chancellor vide office order dated 31.07.2024**(Annexure P-3)**. At the time of his appointment as officiating Vice-Chancellor, Dr. Naveen Kumar was at serial No.47 of the seniority list. Though, at relevant time, one person, namely, Dr. Y.S. Dhaliwal, was senior to

above named Dr. Naveen Kumar, but since he was left with only two months to superannuate, Worthy Chancellor appointed Dr. Naveen Kumar as officiating Vice- Chancellor in terms of Section 24(5) of the Act. Above named Dr. Naveen Kumar superannuated on 30.09.2025 and thereafter, petitioner being senior most Professor was legitimately expecting to be entrusted with temporary charge of the post of Vice-Chancellor, but worthy Chancellor appointed respondent No.4, who admittedly is junior to the petitioner, as officiating Vice-Chancellor (Annexure P-4).

5. Mr. Sanjeev Bhushan, learned Senior counsel representing the petitioner, while referring to Section 24(5) of the Act, vehemently argued that the expression "*amongst the senior faculty members*" necessarily means that senior most faculty member can be given charge or made officiating Vice- Chancellor in the absence of a regular Vice-Chancellor. He submitted that word "*as he may deem fit, amongst the senior faculty members of the University*" cannot be interpreted in the manner that worthy Chancellor has power to appoint anyone as Vice-Chancellor on an officiating basis by ignoring the seniority. He submitted that earlier whenever the provisions of Section 24(5) of the Act were invoked, seniority was kept in mind, but this time such procedure has been flouted that too with a view to extend undue benefit to respondent No.4, who is admittedly

junior to the petitioner. Mr. Bhushan, further argued that it is a basic principle of service jurisprudence that a senior person cannot be made subordinate to a junior. He submitted that at one point of time, respondent No.4 was made to work under his junior, he had approached this Court by way of writ petition and this Court came to his rescue and directed the respondent-University not to compel the petitioner to work under his junior.

6. Lastly, learned counsel for the petitioner argued that respondent No.3, being an Officer, cannot be permitted to act whimsically and ignore the rightful claim of the petitioner, who admittedly is senior in the seniority list, having vast experience of administration. He submitted that seniority, while appointing officiating Vice-Chancellor, can only be bypassed when the senior person is incapacitated to hold the post in question on account of any disability, but in the normal course, the seniority cannot be ignored. He submitted that there is nothing on record to suggest that on any count, the petitioner was incapable of holding the charge of Vice-Chancellor on officiating basis. Learned counsel for the petitioner further contended that respondent No.3, while ignoring the rightful claim of the petitioner for appointment against the post of Vice-Chancellor on officiating basis, has virtually rendered him ineligible to be appointed against the post of Vice-Chancellor on regular basis because in case

petitioner was not found fit to be appointed as Vice-Chancellor on officiating basis, Selection Committee responsible for making regular selection, may ignore his claim.

7. To the contrary, Mr. Peeyush Verma and Mr. Dilip Sharma, learned Senior counsel representing respondent Nos. 3 and 4, respectively, vehemently argued that only interpretation of Section 24(5) of the Act is that worthy Chancellor can appoint any senior faculty member as an officiating Vice-Chancellor. They submitted that expression used “*amongst senior faculty members of the university*” gives ample power to the worthy Chancellor to appoint any senior faculty member as officiating Vice-Chancellor.

8. Mr. Peeyush Verma, learned Senior counsel representing respondent No.3, argued that though in terms of Section 24(5) of the Act, there is no requirement, if any, for worthy Chancellor to look into the merit *interse* two senior faculty members, but in the case at hand, he had an occasion to go through the bio-datas submitted by the petitioner and respondent No.4 for their being appointed as Vice-Chancellor on regular basis. He submitted that since worthy Chancellor, after having gone through the bio-datas as well as documents annexed therewith, found respondent No.4 to be more meritorious, no illegality can be said to have been committed by

respondent No.3, while giving charge of the post of Vice-Chancellor to respondent No.4 on officiating basis.

9. Mr. Dilip Sharma, learned Senior counsel representing respondent No.4, submitted that Section 24(5) of the Act, empowers his Excellency, the Chancellor to make such arrangement for carrying out the duties of the Vice-Chancellor, as he may deem fit, during the temporary absence of the Vice-Chancellor, from amongst the senior faculty members of the University. He submitted that though petitioner is at serial No.2 and respondent No.4 is at serial No.3 in the seniority list, but relevant section does not require that temporary charge of the post of Vice-Chancellor is to be given to the senior most faculty member, rather said sub section states that arrangements are to be made for holding the temporary charge of the post of Vice-Chancellor from amongst the senior faculty members of the University. He submitted that if the interpretation put forth by the petitioner is accepted, in that event, the same would tantamount to re-writing the rule, which is not permissible. While referring to statute 3.2(3) of the Statutes of the respondent-University, which mandates that in the event of temporary vacancy, being caused in the post of Deans of the Colleges, “ *the senior most Professor in the concerned College shall act as Dean of the College, unless otherwise decided by the Vice Chancellor*, Mr. Sharma, submitted that no parity , if any, can

be drawn by the petitioner with the instance when petitioner herein, pursuant to his having approached competent court of law, was ordered to be made Dean of the college on account of being senior most professor in the concerned college. He submitted that since statute itself provided that “senior most” professor in the concerned college shall act as Dean of the college, respondent No.4 at the relevant time rightly came to be appointed as Dean of the college being senior most professor in the concerned college.

10. I have heard learned counsel representing the parties and gone through the record carefully.

11. Before ascertaining the correctness of the rival submissions made by learned counsel for the parties, it would be apt to take note of Section 24(5) of the Act, which reads as under:-

“24. Vice-Chancellor.-

(5) During temporary absence of the Vice-Chancellor by reason of leave, illness or any other cause, the Chancellor may make such arrangements for carrying out the duties of the Vice-Chancellor, as he may deem fit, from amongst the senior faculty members of the University. Where the post of the Vice-Chancellor falls permanently vacant either by resignation or other-wise, the vacancy shall be filled in accordance with the provisions of sub-section (1) of this section and the Vice-Chancellor so appointed shall hold office for a full term or till the attainment of the age of 65 years, whichever is earlier.

12. Careful perusal of aforesaid provision reveals that during temporary absence of Vice-Chancellor, the Chancellor may make such arrangements for carrying out the duties of the Vice-Chancellor, as he may deem fit, from amongst the senior faculty members of the University. Where the post of the Vice-Chancellor falls permanently vacant either by resignation or otherwise, the vacancy shall be filled in accordance with the provisions of sub-section (1) of section 24 of the Act and the Vice-Chancellor so appointed shall hold office for a full term or till the attainment of the age of 65 years, whichever is earlier.

13. Since in the case at hand, issue involved is with regard to appointment made on account of temporary absence of Vice-Chancellor, this Court would specifically deal with first part of the provision contained under Section 24(5) of the Act, which clearly says that during temporary absence of the Vice-Chancellor, the Chancellor may make such arrangement for carrying out the duties of Vice-Chancellor, as he may deem fit, from amongst the senior faculty members of the University.

14. Though, Mr. Sanjeev Bhushan, learned Senior counsel representing the petitioner, vehemently argued that expression "*amongst the senior faculty members*" would definitely mean senior most faculty member, but this Court is not persuaded to agree with aforesaid submission of learned Senior counsel for the petitioner for

the reason that had the intention of law maker been to give charge of the post of Vice-Chancellor on officiating basis only to the senior most faculty member, it would have been specifically provided under aforesaid provision of section 24(5) that worthy Chancellor may make arrangement for carrying out the duties of the Vice-Chancellor by appointing senior faculty member of the University as Vice-Chancellor on an officiating basis. However, in the instant case admittedly expression "*from amongst the senior faculty member of the University*" has been used, meaning thereby worthy Chancellor can appoint anyone of the senior faculty members as Vice-Chancellor on officiating/temporary basis.

15. Though, at this stage, Mr. Anup Rattan, learned Advocate General, while referring to the reply filed by the respondent-State, argued that section 24(5) of the Act, provides that the charge of the post of Vice-Chancellor is to be given to a person from amongst the senior faculty members of the University. He submitted that afore provision casts duty upon the Chancellor to hand over the charge to a senior faculty. He submitted that the intent of legislature is that the senior-most member should be entrusted with the duties of the Vice-Chancellor; otherwise, compelling a senior member to function under a junior may lead to non-compliance with directions and create an atmosphere detrimental to the smooth functioning of the institution.

16. Having carefully perused Section 24(5) of the Act, wherein specific expression i.e. from “amongst the senior” faculty members of the University has been used, this Court is not persuaded to agree with learned Advocate General.

17. At the cost of repetition, it is observed that had the Legislature intended to pass a law that in the absence of regular Vice-Chancellor, senior most faculty member shall act as officiating/ temporary Vice-Chancellor, there was no requirement to use expression “ *from the amongst the senior faculty members of the University*”, rather in that situation, legislation would have straightaway provided that the Chancellor shall appoint senior most faculty member of the University as Vice-Chancellor on officiating/ temporary basis.

18. Though, learned counsel for the petitioner attempted to argue that, while appointing any senior faculty member as Vice-Chancellor on temporary/officiating basis, respondent No.3 was required to consider the claim of senior Professor at first instance and in case, he was not found fit for the reason to be recorded in writing then only person junior to senior most Professor could have been given appointment against the post of the Vice-Chancellor on temporary/officiating basis. However, this Court is not persuaded to agree with learned counsel for the petitioner for the reason that

expression used in Section 24(5) of the Act i.e. *“from amongst the senior faculty members of the University”*, leaves no scope for interpretation that at first instance, the Chancellor is required to consider the case of senior most faculty member for his/her being appointed against the post of the Vice-Chancellor on temporary/officiating basis, rather in terms of aforesaid provision of law, he/she can appoint any senior faculty member of the University against the post of Vice-Chancellor on an officiating/temporary basis. If the interpretation put forth by the petitioner is accepted that would certainly amount to re-writing the rules, which is otherwise not permissible.

19. In the instant case, admittedly, respondent No.4 was at serial No.2 of the seniority list, but worthy Chancellor, having taken note of service particulars of the petitioner, who is at serial No.1 in the seniority list, and respondent No.4, deemed it fit to appoint respondent No.4 as Vice-Chancellor on temporary/officiating basis, which decision cannot be faulted for the reason that Section 24(5) of the Act gives the Chancellor power to choose anyone from amongst the senior faculty members of the University.

20. Reply filed by respondent No.3, if read in its entirety, reveals that worthy Chancellor, while appointing officiating/temporary Vice-Chancellor, had an occasion to see bio-datas submitted by the

petitioner as well as respondent No.4 for their being appointed as Vice- Chancellor on regular basis as such, it cannot be said that worthy Chancellor whimsically or out of vengeance, if any, against the petitioner, proceeded to appoint respondent No.4 as Vice- Chancellor on an officiating/temporary basis.

21. Though, at this stage, Mr. Sanjeev Bhushan, learned Senior counsel representing the petitioner, attempted to argue that afore stand taken by respondent No.3 in the reply that the worthy Chancellor had an occasion to peruse the bio-data given by the petitioner for his regular appointment, may affect prospects of petitioner being appointed on regular basis, but this Court is not persuaded to accept the aforesaid submission of learned Senior counsel for the petitioner for the reason that appointment against the post of Vice-Chancellor on regular basis is to be made by the Selection Committee to be constituted by the worthy Chancellor. Admittedly, in Selection Committee, the worthy Chancellor would not be a member. Selection Committee, while making recommendation for appointment of regular Vice-Chancellor, shall take into consideration many factors, whereas in terms of Section 24(5) of the Act, the Worthy Chancellor during temporary absence of the Vice-Chancellor by reason of leave, illness or any other cause, can appoint

any professor from amongst the senior faculty member of the University as Vice-Chancellor on officiating/temporary basis.

22. No doubt, reply filed by the respondents, especially respondent No.3, nowhere suggests any imputation or allegation against the petitioner, who is senior most faculty member, but Section 24(5) of the Act empowers the worthy Chancellor to appoint any senior most faculty member as Vice-Chancellor on an officiating/temporary basis in the absence of regular Vice-Chancellor. If the Section 24(5) of the Act is read in its entirety, it nowhere suggests that while exercising power under aforesaid provision of law, worthy Chancellor is required to look into the service record of the petitioner, rather he taking note of various factors, may proceed to appoint anyone from amongst the senior faculty member as officiating/temporary Vice-Chancellor.

23. In the instant case, affidavit filed by respondent No.3 clearly reveals that worthy Chancellor, while making appointment of Vice-Chancellor on temporary/officiating basis, considered the name of the petitioner ahead of respondent No.4, but found respondent No.4 more suitable for appointment as Vice- Chancellor on officiating/temporary.

24. In the instant case, the contention of learned senior counsel for the petitioner is that the phrase used in Section 24 (5) of

the Act is 'amongst the senior faculty' which means that senior most faculty member is to be given the charge of the post of Vice Chancellor, but a bare reading of aforesaid provision suggests that the only intent of legislation was that arrangement is made from amongst the senior faculty members, which does not necessarily mean the 'senior most'. Had the intent of legislation been so, specific words ought to have been 'the senior most'. Since it is not so, power is definitely vested with the Chancellor to exercise his discretion in the matter. Cue can be taken from another instance viz. for the post of Dean of Colleges, the relevant clause specifically provides for appointing 'senior most' professor, which shows that where the intent of legislation was to appoint 'senior most' faculty, appropriate words were put into the Statutes and where intent was not so, phrase 'amongst senior faculty' has been used. Though learned senior counsel for the petitioner argued that such discretion should be backed by some reason, but even on that aspect, reply filed by the University shows that Chancellor has found respondent No.4 more meritorious than the petitioner, as such, it cannot be said that decision to give officiating charge of the post in question to respondent No.4 is infested with malice, arbitrariness or lack of reason, rather same has been done after applying mind and in consonance with the provisions of the Act.

25. Consequently, in view of the detailed discussion made hereinabove, this Court finds no merit in the present petition and accordingly, same is dismissed with the observation that application filed by the petitioner for his appointment as Vice Chancellor on regular basis shall be considered by the Selection Committee constituted in terms of relevant Statutes/ ordinance of University without being influenced by the decision taken by the worthy Chancellor, while appointing respondent No.4 as Vice-Chancellor on officiating basis, rather Selection Committee shall take decision independently, taking note of all the relevant factors for appointment against the post of Vice-Chancellor on regular basis. Pending applications, if any, also stands disposed of.

**(Sandeep Sharma),
Judge**

December 24, 2025
(shankar)