

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition No.14334 of 2010

Date: 01-6-2015

Between

Mohammed Batalullah Farooqui

... Petitioner

and

The English and Foreign  
Languages University,  
Rep. by its Registrar,  
OU Campus, Hyderabad;  
and 4 others

... Respondents

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition No.14334 of 2010

Order:

This writ petition is filed for a Writ of *mandamus* declaring the

selection of respondents 2 to 5 as Assistant Professors in the 1<sup>st</sup> respondent-The English and Foreign Languages University, Osmania University Campus, Hyderabad (the University, for short) in furtherance of Advertisement No.2/2009, dated 02-7-2009, as arbitrary, illegal, void and violative of Articles 14 and 19 of the Constitution of India and to set aside the appointments and to further direct the 1<sup>st</sup> respondent-University to consider the case of the petitioner according to merits and pass appropriate orders.

2. Pursuant to the Notification in Advertisement No.2/2009, dated 02-7-2009, issued by the 1<sup>st</sup> respondent-University, the petitioner applied for the post of Assistant Professor in the Department of Arabic Language and Linguistics and Assistant Professor in the Department of Arabic Literature in the School of Middle East and African Studies, by submitting an application dated 22-8-2009.

He was called for the interview by call letter dated 05-4-2010 on 20-4-2010. He attended the interview but was not selected.

3. It is submitted by the petitioner that he is a Gold Medallist in M.A. (Arabic) with Diploma in Translation

and Post Graduate Diploma in Applied Linguistics.

He is National Eligibility Test (NET) qualified and presently working as an Assistant Professor in Moulana Azad National University on contract basis. Though he was fully qualified, his qualifications were not considered and the respondents 2 to 5 who do not possess the minimum qualification of Diploma or Degree in Linguistics and do not have any experience at any University level were considered for the posts advertised for.

4. The version of the petitioner is that the Selection Committee failed to take into consideration all the above facts while interviewing the candidates and awarding marks. It is further submitted that the

Selection Committee is not a valid Committee constituted for the purpose of interviewing the prospective candidates and the marks awarded to the candidates have been changed at the instance of the higher officials of the University thereby denying employment to the petitioner and other eligible prospective candidates.

In the above circumstances, it is said that the petitioner filed the present writ petition.

5. The 2<sup>nd</sup> respondent filed a counter affidavit contending, *inter alia*, as follows:

(a) It is submitted that he was awarded Ph.D. in the field of Modern Arabic Literature on "*Contribution of Kamil Kilani and Ismail Merthl to the Child Literature:*

*A Comparative Study*" in 2009 and M.Phil with distinction in the area of Modern Arabic Literature on "*Md.Nazim Nadvi : Life and Work*" which is a comparative study of Indo Arabic Literature as desired by the University in its Notification in 2006 and Masters Degree in the Modern Arabic Literature in the year 2005 from the Centre for Arabic Studies of the 1<sup>st</sup> respondent-University and he qualified NET conducted by the University Grants Commission (UGC) in December, 2005. He worked as a Guest Lecturer, Department of Arabic of the 1<sup>st</sup> respondent-University during the academic year 2009-10 and he worked as Teaching Assistant (Part-time) during 2006-2008 in the Department of Arabic Studies of the 1<sup>st</sup> respondent-University. He was engaged for the teaching of Arabic Language in the Functional Arabic Diploma Course from April, 2005 to March, 2006 by National Council for Promotion of Urdu Language (South Region Branch), Hyderabad. He worked as Arabic Lecturer in the Darul-Uloom-Sbeelussalam, from August, 2001 to July, 2003 and he worked as Arabic Teacher in Madarsa Islamia, Ganeshpur, Supaul from December, 1999 to July, 2001. He has nine published works and attended

an International Seminar and presented the paper and finally, he was selected by a legitimate Selection Committee duly formulated by the 1<sup>st</sup> respondent-University in question. It is also pertinent to mention at this stage that this respondent is more qualified i.e. he got an additional qualification of Ph.D whereas the petitioner has got only M.A. with NET.

(b) It is further submitted that the Diploma or Degree in Linguistics are not at all required in his case as he was appointed as Assistant Professor in Department of Arabic Literature and possessed the requisite qualification.

He also has the requisite experience i.e. having three years teaching experience in the Department of Arabic of the

1<sup>st</sup> respondent-University. He qualified NET examination in December, 2005 and has the Ph.D Degree in Modern Arabic Literature, M.Phil and Distinction in Modern Arabic Literature, M.A. in Arabic Literature with 'A' Grade. Therefore, no grounds are made out to question his appointment.

(c) Nextly, it is submitted that he took charge as Assistant Professor in the Department of Arabic Literature, School of Middle East and African Studies at the

1<sup>st</sup> respondent-University on 24-5-2010 and since then, he is in the University service. He filed all the relevant documents to manifest his qualification, experience and also the list of published work. He is having more qualifications and experience than the petitioner and the Selection Committee duly constituted by the 1<sup>st</sup> respondent-University selected him after considering his service. Contending as above, he prayed to dismiss the writ petition.

6. The 3<sup>rd</sup> respondent filed a counter affidavit contending, *inter alia*, as follows:

(a) It is submitted that he acquired the qualification of B.A. (Languages) a three years' course from Osmania University,

Hyderabad. The course comprises of Urdu as main language, apart from Arabic and History of India.

He acquired 71% of marks in the graduation examination held in May, 1996. Thereafter, he acquired Masters Degree in M.A. (Arabic) with 86% of marks from Osmania University in April, 1998. Thereafter, he qualified for NET in June, 2004 by the UGC. He was also awarded Ph.D in Arabic by Osmania University in November, 2007.

(b) It is further submitted that his experience as teacher are that he worked as Part-time Lecturer in Arabic in Jamiat-ul-Quran from 1996 to April, 2001; worked as Senior Arabic Lecturer in Sri Chaitanya College from July, 2002 to April, 2010; worked as Teacher of P.G. Diploma in Translation from Arabic to English and vice versa from December, 2008 to April, 2010. He was also awarded Gold Medal in M.A. (Arabic) by Osmania University. He was awarded first prize in Essay Writing Competition at All India Level twice i.e. in 2001 and 2003 conducted by Ghalib Institute, Alwan-e-Ghalib, New Delhi. To his credit, 5 books were published, out of which one is Translation of Urdu to English. Thus, he possessed all the requisite qualifications to apply for the post of Assistant Professor notified by the 1<sup>st</sup> respondent-University vide Advertisement No.2/2009, dated 02-7-2009. Since he is the meritorious candidate having been selected, the petitioner cannot have any grievance with regard to his selection to the post of Assistant Professor. Contending as above, he prayed to dismiss the writ petition.

7. The 4<sup>th</sup> respondent filed a counter affidavit contending, *inter alia*, as follows:

(a) It is submitted that the writ petition as filed is not maintainable as there is no statutory provision, rule or regulation or right, much less fundamental right that has been violated. The relief as sought by the petitioner cannot be granted as the 1<sup>st</sup> respondent-University conducted the selections as per the procedure in vogue. The petitioner having subjected himself to the selections as per the

procedure prescribed in the Notification and was not successful in the selections, filed this writ petition and as such the writ petition is liable to be dismissed on this ground.

(b) It is further submitted that he did his B.A. in Arabic Language in the year 2002 with 1<sup>st</sup> Division and Post Graduation i.e. M.A. in Modern Arabic Language, having Language, Linguistics and Translation as subjects with 'A' Grade and qualified in the NET in 2004. He did M.Phil in Arabic Language and Literature in 2005 and Ph.D in Arabic Language and Literature in 2008. He also did Diploma in Translation. He wrote a book on Linguistics published by Indialogue foundation Turkey, Hyderabad in 2008 with a title "*A Linguistic Introduction to the Study of Arabic Language*" and also book on translation "*Translation: The Basics a Technical Approach*".

(c) Nextly, it is submitted that he worked as a Lecturer in National Council for Promotion of Urdu Language from September, 2004 to July, 2006 and also worked as Part-time Lecturer in the Department of Arabic, Osmania University for the period from 2006 to 2008 and also a Guest Lecturer in the Department of Arabic of the 1<sup>st</sup> respondent-University for a period of one year i.e. from September, 2008 to April, 2009 pursuant to the Notification and selections conducted by the 1<sup>st</sup> respondent-University in the year 2008.

(d) Nextly, it is submitted that 4 posts were notified to the posts of Assistant Professors in the Department of Arabic Languages and Linguistics (3 posts) and Department of Arabic Literature (1 post) under the School of Middle East and African Studies. The qualification prescribed for the posts of Assistant Professors is a good academic record with at least 55% marks or equivalent grade of 'B' in the seven point scale at Master's Degree level in the relevant subject and should have cleared the eligibility test NET for Lecturers conducted by the UGS, CSIR and similar test accredited by the UGC.

NET/SLET shall remain the minimum eligibility condition for recruitment or appointment of Lecturers in University/Colleges/Institutions and the said condition is exempted to the candidates who are awarded Ph.D. Degree in compliance of the UGC Regulation, 2009 and further provided desirable qualification in the relevant subjects.

(e) Nextly, it is submitted that the petitioner was also participated in the selection process conducted by the 1<sup>st</sup> respondent-University and not successful in the selection, has filed the writ petition with untenable allegations. He submitted that he is better qualified than the petitioner. The petitioner possessed only M.A. with NET whereas this respondent possessed Ph.D and also NET. Therefore, he prayed to dismiss the writ petition.

8. In the Re-Joinder filed by the petitioner, it has been mainly contended that as per the Notification Advertisement No.2/2009, dated 02-7-2009, for the post of Assistant Professor, the following are the essential qualifications:

“Good academic record with at least 55% of the marks or, an equivalent grade of B in the seven point scale with latter grade O, A, B, C, D, E & F at the Master’s Degree level, in the relevant subject from an Indian University, or, an equivalent degree from a foreign University.

Besides fulfilling the above qualifications, candidates should have cleared the eligibility test (NET) for Lecturers conducted by the UGS, CSIR or similar test accredited by the UGS.

“NET/SLET shall remain the minimum eligibility condition for recruitment and appointment of lecturers in Universities/Colleges/Institutions”.

9. According to the petitioner, to his Right to Information query,

the 1<sup>st</sup> respondent-University authorities responded stating that “*good academic record*” means –

“Good academic record means the candidate must have obtained an average of 50% marks in each of the two public examinations/degrees immediately preceding the Master’s degree”.

10. Thus, the petitioner seeks to contend that none of the selected candidates i.e. the respondents 2 to 5 does possess X Class or Intermediate qualifications at all and therefore, they do not fulfill the minimum prescribed criteria, which is required under the Notification. Therefore, the petitioner contends that the selection of the respondents 2 to 5 shall be set aside and he shall be appointed in one of the vacancies arising therefrom.

11. The respondents 2, 3 and 4 in their respective counters mentioned their qualifications and the marks obtained by them in the respective courses. They also filed copies of the certificates showing the educational qualifications, marks showing their merit in the respective subjects. Their contention is that as the respondents 2 to 4 are more meritorious than the petitioner, they were preferred and were selected for the respective posts. According to them, as the petitioner was not selected he filed the writ petition with false and frivolous allegations.

If the regulations of the 1<sup>st</sup> respondent-University permit an individual to obtain a Bachelor’s Degree directly without studying X Class or Intermediate, the petitioner cannot question the selection of the candidates on the mere ground that the candidates did not, in fact, study X Class or Intermediate. It is also not open for him to contend that

a person who did not study X Class or Intermediate has no academic qualification. When the regulations of the

1<sup>st</sup> respondent-University permits acquiring Bachelor’s Degree directly, the career of the candidate shall be considered from the

Degree course and if the candidate is otherwise eligible as per the Notification, he shall not be disqualified for the post applied for.

12. The selection for the posts of Assistant Professors as it would appear in the Notification is obviously basing on the higher qualification but not basing on the performance in the X Class or Intermediate course. Basing on the particulars furnished by the respondents 2, 3 and 4, this Court is of the opinion that they do possess the qualifications which were mentioned in the Notification. Further, the respondents 2 to 5 were selected for the respective posts in the year 2010 and they have been continuing in the said posts.

13. One of the contentions urged by the petitioner is that the Selection Committee is not a valid Committee constituted for the purpose of interviewing the prospective candidates. The petitioner did not place any material as to how the Selection Committee was not validly constituted. In the absence of any material placed on record, mere contention of the petitioner cannot be taken into consideration. As regards the *mala fides* attributed to the Selection Committee also, the petitioner did not place any iota of evidence showing the *mala fides*. Therefore, the said contention also cannot be accepted. Basing on the experience and qualifications of the respondents 2 to 5, the Selection Committee preferred them to the petitioner.

This Court while exercising jurisdiction under Article 226 of the Constitution of India cannot substitute its opinion to that of the Selection Committee. The entire writ petition is based on some vague and sweeping allegations basing on which, no relief can be granted to the petitioner.

14. Therefore, the writ petition is dismissed.

The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

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R.KANTHA RAO, J.

01<sup>st</sup> June, 2015.

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HON'BLE SRI JUSTICE R.KANTHA RAO

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01<sup>st</sup> June, 2015.

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