

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 19506 of 2014

Reserved On : May 25, 2015

Pronounced On : 29.05.2015

Sarabjeet Kaur Petitioner
vs.
State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Naresh Jain, Advocate
for the petitioner.

Mr. Sushant Maini, DAG, Punjab.

Mr. Amrit Paul, Advocate
for respondents no. 2 and 3.

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DEEPAK SIBAL, J. :

Through advertisement dated 28.05.2014 (Annexure P-1), respondent Guru Nanak Dev University, Amritsar (hereinafter referred to as – the University) invited applications for appointment to the posts of Assistant Professor (Computer Science) on contract/part time basis. The qualifications, as prescribed in the advertisement, were as follows :-

“Qualifications : As per UGC guidelines, in the subject of Computer Science, if M. Tech. or UGC NET qualified candidates are not available, then candidates with MCA (minimum 60% marks) qualifications may be considered for appointment. In the constituent colleges, if UGC NET qualified candidates are not available, then, candidates having post-graduation in the relevant subject (minimum 55% marks) may be considered for appointment on part-time basis.”

As per the terms of the advertisement, as reproduced above, the qualifications laid down by the University Grants Commission (hereinafter referred to as – the UGC) were to be followed. The qualifications prescribed by the UGC, under the UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and measures for the maintenance of standards in Higher Education, 2010 (hereinafter referred to as – the Regulations), are reproduced below :-

**“4.4.6.1 MINIMUM QUALIFICATIONS
FOR APPOINTMENT OF TEACHING
FACULTY IN UNIVERSITIES AND
COLLEGES – ENGINEERING AND
TECHNOLOGY DISCIPLINE :**

1. Assistant Professor

i. Essential

First Class Master's Degree in the appropriate branch of Engineering (Engg.) & Technology (Tech.)

ii. Without prejudice to the above, the following conditions may be considered desirable :

1. Teaching, research industrial and/or professional experience in a reputed organization :

2. Papers presented at Conferences and/or in refereed journals.”

A conjoint reading of the above shows that candidates possessing the qualification of Master's Degree in Engineering and Technology were eligible for consideration of their candidature for appointment as Assistant Professor (Computer Application) and that the candidates holding a Master's Degree in Computer Application were to be considered, only if candidates holding Master's Degree in Engineering and Technology were not available.

Through the above referred advertisement, 141 posts were

advertised to be filled up, but after the completion of the selection process, only 128 candidates were selected, out of which there were as many as 85 candidates, who possessed the qualification of Master's Degree in Computer Application. The petitioner, being holder of a Master's Degree in Technology, with nearly six years of experience as Lecturer, had applied for consideration of her candidature qua one of the advertised posts, but in spite of the fact that she being holder of a Master's Degree in Technology, was available, she was ignored and contrary to the terms of the advertisement as many as 85 candidates holding the degree of Master's in Computer Application, were appointed. Aggrieved by such action on the part of the respondent University, the petitioner has approached this Court through the present writ petition.

It is the admitted position that as many as 85 candidates, out of the total of 128 candidates so appointed, were holders of degrees in Master's in Computer Application. It is further not disputed that the petitioner was eligible, available for appointment and that there was no record declaring the petitioner unsuitable for the job in question.

On a query put by the Court to the learned counsel appearing on behalf of the respondent University, so as to what criteria was made and followed by the Selection Committee to make selections of Assistant Professors, who were to take both Graduate and Post Graduate classes, learned counsel drew a complete blank. It was revealed that there was no record of any criteria having been made before and at the time of the

selection. To unravel the reason for not selecting the petitioner, counsel appearing on behalf of the respondent University was asked to produce the original record pertaining to the impugned selection, a perusal of which was shocking. There was no record of the proceedings of the interviewing board. All that I found was that on the list of eligible candidates, the tick marked candidates were the ones, who had been selected and the members of the interviewing board had appended their signature at the end of such list. What to talk of awarding of marks under separate headings, there was no score card at all. No merit, what to talk of inter-se merit, had been determined. Even after careful scrutiny of the record, the basis of selection remained an unsolved mystery – it still is. I was further shocked on the revelation that even no merit list of the selected candidates was ever published or displayed. On another query put by me so as to under which instruction or provision of law/statute, was the Selection Committee constituted, learned counsel for the respondent University drew another blank. As if this was not enough, the above selections have not only been approved by the Vice Chancellor of the respondent University, but also by the Syndicate.

What is least expected from a seat of higher learning like a University is that, when they select their teachers, who would be teaching and guiding graduates and post-graduate students, they would be selected through a fair and transparent procedure, which has the backing of instructions or regulations of the applicable regulatory bodies. It was

disturbing to find out that while making the appointments to the posts of Assistant Professors (may be on contractual basis), there was no criteria made or followed and that there was no record of any proceedings recorded by the Selection Committee to judge and sift the best candidates from the pool of eligible applicants. Even no merit list or a list of selected candidates was published or displayed. What is even more disturbing is that even the Vice Chancellor, as also Syndicate of the respondent University, failed in its supervisory duties by casually approving the impugned selections, which apparently did not even have the semblance of a valid selection.

Further, the impugned selection process is also in gross violation of the UGC Regulations. The selection procedure, as given in the Regulations 6.0.1, 6.0.2 and 6.0.4 of the Regulations, is reproduced below :-

“6.0.0 *SELECTION PROCEDURES :*

6.0.1 *The overall selection procedure shall incorporate transparent, objective and credible methodology of analysis of the merits and credentials of the applicants based on weightages given to the performance of the candidate in different relevant dimensions and his/her performance on a scoring system proforma,*

based on the Academic Performance Indicators (API) as provided in this Regulations in Tables I to IX of Appendix III.

In order to make the system more credible, universities may assess the ability for teaching and/or research aptitude through a seminar or lecture in a class room situation or discussion on the capacity to use latest technology in teaching and research at the interview stage. These procedures can be followed for both direct recruitment and CAS promotions wherever selection committees are prescribed in these Regulations.

6.0.2 *The Universities shall adopt these Regulations for selection committees and selection procedures through their respective statutory bodies incorporating the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS) at the institutional level for University Departments and their*

Constituent colleges/affiliated colleges (Government/ Government-aided/ Autonomous/Private Colleges) to be followed transparently in all the selection processes. An indicative PBAS template proforma for direct recruitment and for Career Advancement Schemes (CAS) based on API based PBAS shall also be sent separately by the UGC to the universities. The universities may adopt the template proforma or may devise their own self-assessment cum performance appraisal forms for teachers in strict adherence to the API criteria based PBAS prescribed in these Regulations.

6.0.4 *In all the Selection Committees of direct recruitment of teachers and other academic staff in universities and colleges, provided herein, an academician representing SC/ST/OBC/Minority/Women/Differently-abled categories, if any of candidates representing these categories is the applicant and if any of the members of*

the selection committee do not belong to that category, shall be nominated by the Vice Chancellor or Acting Vice Chancellor of the University, and in case of a college Vice Chancellor or Acting Vice Chancellor of the University to which the college is affiliated to. The academician, so nominated for this purpose, shall be one level above the cadre level of the applicant, and such nominee shall ensure that the norms of the Central Government or concerned State Government, in relation to the categories mentioned above, are strictly followed during the selection process.”

As per Regulation 13.1 of the Regulations, the above Regulation procedure is also to apply when appointments are made on contract basis. Regulation 13.1 is reproduced below :-

“13.1 *The teachers should be appointed on contract basis only when it is absolutely necessary and when the student-teacher ratio does not satisfy the laid down norms. In any case, the number of such appointments should not exceed 10% of the*

total number of faculty positions in a College/University. The qualifications and selection procedure for appointing them should be the same as those applicable to a regularly appointed teacher. The fixed emoluments paid to such contract teachers should not be less than the monthly gross salary of a regularly appointed Assistant Professor. Such appointments should not be made initially for more than one academic session, and the performance of any such entrant teacher should be reviewed for academic performance before reappointing her/him on contract basis for another session.”

From a perusal of the above quoted Regulations, it is clear that in the impugned selections, the procedure, as per the above quoted Regulations, has been completely thrown to the winds. No transparent, objective and credible methodology of analysis of the merits and credentials of the applicants based on weightages given to the performance of the candidate in different relevant dimensions and his/her performance on a scoring system proforma, based on the Academic Performance Indicators (API) is revealed from the record. The procedure for judging the ability of

the candidates to assess the teaching and/or research aptitude through a seminar or lecture in a class room was also not adopted. No academician representing SC/ST/OBC/Minority/Women/ Differently-abled categories was a member of the Selection Committee, as required under Regulation 6.0.4.

The above facts present a rather sorry state of affairs in the respondent University, but as the term of appointments of the persons selected through these impugned selection is to expire on 29.05.2015, I refrain from quashing their appointments, especially in the absence of the selected candidates being a party to the present petition. However, the respondent University is directed not to grant any extension in the contractual period of their service beyond 29.05.2015 and fill up the vacant posts as per procedure prescribed under the Regulations made by the UGC.

The writ petition is disposed of with the aforesaid directions, with costs quantified at ₹ 25,000/-.

(DEEPAK SIBAL)
JUDGE

Pronounced On : 29.05.2015

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