

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.20832 of 2014
Date of Decision.13.02.2015

Dr. R.D. Anand

.....Petitioner

Versus

Panjab University and others

.....Respondents

Present: Dr. R.D. Anand, petitioner in person.

Mr. Amar Vivek, Advocate
for the respondents.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

-. -

K. KANNAN J.

1. The petitioner who was an ex member of the Senate of the Panjab University is before the Court in person seeking for issue of writ of quo warranto against the 3rd respondent, who holds the office of Registrar of the Panjab University. The petitioner's case is rested on a plea that the petitioner does not fulfill the eligibility criteria for admission to the post in the manner advertised. The manner of selection itself was not transparent and the procedure adopted for choice of candidates from among several other candidates who applied to the post was legally suspect. The application for appointment made by the selected candidate is also stated to be defective and the ultimate result, according to the petitioner, is that the selection is flawed and he being a usurper of the public office, must vacate.

2. The qualifications prescribed under the advertisement

notification issued on 12.02.2014 for the post of Registrar was that he shall have a Master's degree with at least 55% of marks or its equivalent grade of 'B' in the UGC 7 point scale and the experience shall be (i) at least 15 years' experience as Assistant Professor with specific scales or (ii) comparable experience in research establishment and/or other educational institutions or (iii) 15 years of administrative experience of which 8 years shall be as Deputy Registrar or an equivalent post.

3. The first ground of attack against the 3rd respondent's selection is that he lacks both the educational qualification as necessary and the administrative experience as stipulated in the notification. The petitioner would refer me to the Master's degree qualification which the 3rd respondent was said to have acquired in 2001, which was M.Tech in MCEME, Secunderabad, JNU in Advanced Mechanical Engineering. If 15 years' experience was also expected, the fact that the petitioner had passed his M.Tech only in the year 2001 would show that he did not have the requisite 15 years' experience as a Post Graduate simultaneously. The petitioner would rely on the decision of the Supreme Court in N. Suresh Nathan Vs. Union of India 1991(sup1) SCC 584 that educational qualification and experience must co-exist. There is also a reference to acquisition of PGDM diploma from Indian Institute of Business Management, Patna in the year 1992 and this, according to the petitioner, cannot be treated as equivalent to a Post Graduate course although declared to be equivalent to MBA.

4. Joining issues on the aspect of the educational qualification, it is contended by the respondent that the Post Graduate course cannot be attached to the 15 years' experience, for, it is independent. The

Supreme Court was dealing with the recruitment rules for the post of Assistant Engineer in Public Works Department. It was expected that the candidate must have three years' service as degree holder for promotion. The Supreme Court held that the period of three years was to be reckoned from the date when he obtained degree and not earlier. Service in the grade as a diploma holder prior to obtaining a degree, the Supreme Court held could not be counted as service in the grade of a degree. Learned counsel appearing on behalf of the University would explain that the decision of the Supreme Court cannot be applied since the requirement of experience along with the acquisition of the qualification in the manner referred to under the recruitment rules was not the manner in which the advertisement had stipulated the requirement of a post graduate qualification. I would accept this contention and find that it is not possible to infer from the specification that the experience must have been after the acquisition of post-graduate qualification. Indeed, the 3rd respondent had attempted to say that even the post graduate qualification itself is available to the 3rd respondent by virtue of the fact that he had a post graduate diploma in Marketing from Indian Institute of Business Management Patna which the certificate declared as recognized by the Government as equivalent to the Masters in Business Administration. The petitioner would however counter this argument and state that the Government cannot be a competent body to accord such a recognition. If such a recognition by the Government was competent, it must be referred to as merely a recognition by the Bihar Government and could not be applied as recognized by any professional body. I would not go into this

hairsplitting argument since I have already held that the post graduate qualification obtained by the 3rd respondent in M.Tech was sufficient. Although it had been done within a period of 15 years, I would say the experience required for 15 years was not necessary to have been acquired after the completion of the post graduate course. The issue of equivalence of the PG Diploma as post graduate course or not is not therefore, undertaken as being unnecessary.

5. The second plank of attack on the 3rd respondent's qualification is that the 3rd respondent does not possess 15 years of administrative experience as required in the advertisement notification. According to the petitioner, the administrative experience which the notification contemplates must relate to an experience in a college or an educational institution. The 3rd respondent has been a Colonel in the Army and he simply does not have such an experience. The experience as a Deputy Registrar or an equivalent post, according to the petitioner, must be a post that carries the duties of a Deputy Registrar in educational environment. The petitioner would refer to the decision of the Supreme Court in Union of India and another Vs. P.K. Roy and others AIR 1968 (SC) 850, where the Supreme Court was deciding a case in the context of the qualification as set down under the provisional gradation list issued by the State of Madhya Pradesh High Court under the relevant provisions of the State Reorganization Act. The Central Government was constituting Advisory Committee for assessing them by dealing with the representations from the officers affected by reorganization and the principle for determining equation of the posts. The principle laid down was that in determining the equation

of post, the following factors were required to be borne in mind:-

- (i) the nature and duties of a post;
- (ii) the responsibilities and powers exercised by the officer holding a post; the extent of territorial or other charge held or responsibilities discharged;
- (iii) the minimum qualifications, if any, prescribed for recruitment to the post;
- (iv) the salary of the post.

Even apart from these requirements for determining the relative seniority as between two persons, the length of continuous service whether temporary or permanent and the age of the persons, other things being equal were to be considered. The petitioner would make reference to the fact that although the 3rd respondent may pass the test as regards the salary or age or even the educational qualification, the nature of duties of posts of a Deputy Registrar cannot be matched by a person who was drawn from the Army. The learned counsel appearing on behalf of the University would refer to the fact that as regards his experience, the application had given the information regarding the fact that he was involved in operation in Human Resource Management and he had also performed duties of administration and was responsible for handling recruitments, performance appraisals and awards. His experience profile also revealed that he had handled higher levels of HR and administrative functions including general administration.

6. The counsel for the university would explain that the qualification as regards the relevant experience allowed for choice of candidates from any one of the three streams. The first stream could be of a person wholly in the educational field as an Assistant Professors or Associate Professor and the second stream in a research institute where

a person could be fully engaged in research and could have been even obtained several patents. But as regards 3rd stream, it merely stipulated 15 years of administrative experience of which 8 years were to be as Deputy Registrar and equivalent post. It must be recognized that such administrative experience need not be exclusively in any educational institution. A Registrar shall be a person who would not require to take care of the academics and would be in charge of manning human resources. The 3rd respondent had adequate experience in that filed. The 3rd respondent would refer to the fact that even in the past there have been several persons drawn from the Army who occupied the post of the Registrar. I cannot find particular disqualification for person who had worked in the Army and who had sufficient exposure to manage the human resources and who had spelt out in his curriculum vitae sufficient exposure to several matters of administration has to be in any way connected directly to an educational institution.

7. The petitioner would state that the experience certificate itself had not been attached and the application was deficient in not making possible for an assessment that the 3rd respondent had the requisite experience. It is pointed out by the counsel for the University that the Vice Chancellor himself had made a note at the time when the interview committee was constituted approving of all the candidates who had applied even without insufficient certification of the experience shall be called for interview and examined. The mere lack of information with supporting documents in the application form was not applied against any candidate and therefore, the 3rd respondent could not also be disqualified on that account. As a matter of fact his

experience of over 15 years was sufficiently made available before the interview committee and that was considered as adequate. If there is no argument before me that he did not have requisite experience of 15 years but only that experience in the Army would not be sufficient and that an experience other than an educational institution could not be considered, I must observe that the administrative experience is not limited only to an educational institution in the manner in which three streams provided from where the candidate could have been picked up. The three streams could overlap or they could even be mutually exclusive. Even without reference to an experience only in an educational field, I would find that a person from the Army who had sufficient exposure for preparation of curriculum for their in-house training, recruitment of persons and for inventory control ought to have put the 3rd respondent in sufficient know of things necessary for administration in educational fields. We even know of office of Governor of some States that require intimate understanding of constitutional provision and who are chancellors of Universities being drawn from the Army background. I will not find the 3rd respondent to be deficient in any qualities required for Registrar of University to render him ineligible. I will, therefore, discard the argument that he did not have the requisite experience or that he did not produce the necessary documents along with the application to invite the disqualification.

9. Yet another point which is stated is that the interview committee did not even have a template setting out the various parameters under which the candidates were appraised. The contention

is that the decision to select the candidate was opaque and arbitrary. It is admitted by the petitioner himself that the UGC has spelt out a template only for Professors or persons in the educational line but provides no specific template for a Registrar. The argument, however, is that in the absence of any pre-determined grading of various qualities that would be necessary, the ultimate choice would become arbitrary and the relative grading would become impossible. I was myself anxious that when there were 29 candidates drawn for selection, there ought to have been some method by which a relative grading was possible and the candidate's qualities could not be assessed by merely their physical appearance or watching their respect *power point* presentation. The counsel for the University would explain that the interview was conducted by a committee of persons who were highly acclaimed in their respective fields consisting of seven persons including the Dean of the University, who was the Chairperson and they carried out the interview and presentation among 29 persons in various sessions. Out of the candidates interviewed in each session, the most suitable candidates were picked up and added on to the next session for comparison and again some limited number of persons who were picked up in the next session to be carried forward to the next session. There were some rough papers which the screening committee itself had kept as rough notes but they were all destroyed since there was no specific requirement spelt out for the manner the assessment. The counsel appearing for the University was prepared to hand over to me a file containing the markings of the interview committee for all the candidates. I could see several marks on the various aspects of the

abilities, training and experience of the various candidates and I will not suspect that a well acclaimed body of persons allowed themselves to be blinded by any bias in the choice of the candidate. Indeed, there is not even a suggestion anywhere in the petition that the ultimate choice of the candidate was arbitrarily made by allowing any personal bias of the interview committee to prevail. In the absence of any bias or mala fides attributed to any members of the interview committee, I will not find the absence of template for assessment of merit of the individual candidates would dislodge the merit of the selection process.

10. The counsel for the University points out to me the four stages of the recruitment process. First was the stage of screening of candidates that they filled in all the necessary qualification and experience as prescribed in the advertisement. The second phase was a reference sought from the respective persons whom the candidates themselves had provided. I have seen the letters addressed by the Vice Chancellor to persons giving reference to the candidates. The 3rd respondent carried reference from two eminent persons which had also been taken note of. There is no adverse comment about the 3rd respondent. The third phase was the choice of the selection committee by deliberations. I find that the matter was put through a threadbare discussion and the minutes of the Senate proceedings dated 28.09.2014 have been filed. The selection committee's choice had been discussed and the approval has come as the fourth stage. The discussion specifically records the fact that as per the requirement of the Panjab University Calendar, the choice was required to be put to vote. The petitioner himself would refer to the fact that as per Clause 20 of

Chapter II of the University Calendar when the debate was concluded, the Chairman was required to put the proposal to vote. Admittedly, the choice of the candidate had not been put to vote but this has also been referred to in the minutes. When one of the members of the Senate had asked the selection process to be put to vote, the Vice Chancellor had stated that it would set up a bad precedent for choice of the Registrar and that it should be carried through by persons signifying their approval or objection. The minutes recorded the dissent from one of the members and rest of the members had allowed for passing through the resolution without a vote. I find that there has been fairly a transparent method of selection in that the discussions relating to the 3rd respondent's choice were fully brought out in the minutes. Even the objection made by some of the members that the 3rd respondent's experience in the Army was not sufficient or that the documents relating to the educational qualifications were not also sufficient had been discussed and a conscious decision was taken at the Senate approving of the selection after dealing with the objections raised at the Senate meeting. I am of the view that whole procedure adopted betrays no foul play and the ultimate choice that has resulted by picking up 3rd respondent as the Registrar conforms to the relevant Regulations and procedure. I find nothing for intervention against the legality of the appointment of the 3rd respondent.

11. The writ petition is, under the circumstances, dismissed. No costs.

(K. KANNAN)
JUDGE

February 13, 2015

Pankaj*