

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**LPA No.31 of 2014 (O&M)
Date of Decision: 17.03.2015**

Rubina

.....Appellant

Vs.

Punjabi University and Others

.....Respondents

LPA No.1057 of 2014 (O&M)

Punjabi University and Others

.....Appellants

Vs.

Mohd.Ayhub Khan and Others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR.JUSTICE P.B.BAJANTHRI**

**Present:- Mr.Rajiv Atma Ram, Sr. Advocate with
Mr.Sube Sharma, Advocate for the appellant.**

Mr.Vipul Jindal, Advocate for the respondent No.1.

Mr.Rahul Rampal, Advocate for respondent No.6.

SURYA KANT, J. (ORAL)

(1) This Letters Patent Appeal impugns the order dated 25.11.2013 passed by learned Single Judge, whereby writ petition filed at the instance of 6th respondent has been allowed and the selection and appointment of appellant as Reader/Associate Professor for Urdu in Nawab Sher Mohd. Khan Institute of Advance Studies in Urdu, Persian and Arabic, Malerkotla, run by Punjabi University, Patiala, has been set aside after holding that the

said respondent was severely prejudiced by not considering his claim though he was eligible for the advertised post.

(2) Punjabi University, Patiala vide advertisement dated 08.02.2009, invited applications for the post of Reader in Urdu for the aforesaid Institute stipulating that the candidates were required to possess qualifications "as prescribed by the UGC" with preference to the candidates having M.A. in Persian and Arabic.

(3) The UGC qualifications are contained in the notification of March, 2000 (Annexure R-1/2) which have been duly adopted by the Punjabi University. The qualifications prescribed for the post of Reader are to following effect:-

"Good academic record with a doctoral degree or equivalent published work. In addition to these, candidates who join from outside the university system, shall also possess at least 55% of the marks or an equivalent grade of B in the 7 point scale with latter grades O,A, B,C,D,E and F at the Master's degree level.

Five years of experience of teaching and/or research excluding the period spent for obtaining the research degrees and has made some mark in the areas of scholarship as evidence by quality of publications, contribution to educational innovation, design of new courses and curricula."

(emphasis applied)

(4) The appellant as well as 6th respondent were amongst the candidates who responded to the subject advertisement. The application of respondent No.6, however, was turned down on the premise that he did not possess "Five years of experience of teaching and/or research excluding the period spent for obtaining the research degree". The other ground of rejection of his application was that the original documents were not appended with the application.

(5) The aggrieved respondent No.6 approached this Court and vide the impugned order, learned Single Judge has held him eligible for he was assigned the 'teaching work' while pursuing his research and such experience was required to be taken into account to determine the eligibility.

(6) It is undeniable that one of the document heavily relied upon by 6th respondent is a certificate dated 13.02.1997 purportedly issued by Dr.S.K.Zinatullah, certifying that respondent No.6 while he was a Regular University Research Scholar in the subject-Institute from March 25, 1992, was also given Urdu and Persian subjects to teach the students of Certificate Course and MA Part-1.

(7) The appellant has during the pendency of appeal, questioned the genuineness of above-stated certificate by way of Civil Miscellaneous Application No.2070-LPA of 2014 to which the Registrar of Punjabi University has filed his reply/affidavit dated 30.01.2015 (CM No.511-LPA

of 2015) averring as follows:

(iii) *Mohd. Ayub Khan was never ever appointed in the substantive capacity of a Lecturer in the answering respondent University.*

(iv) *Mohd.Ayub Khan as per the time table records available with the answering respondent University was given only one tutorial period of MA (Persian) Part-I in the year 1992-1993 as well as of one Certificate course in Urdu in the year 1992-93 only. Thereafter, as per the records, Mohd.Ayub Khan was not allotted any teaching work at Nawab Sher Mohd.Khan Institute, Maler Kotla, which is a Centre of the answering University only.*

(v) *That the certificate annexed by Mohd.Ayub Khan regarding his teaching experience issued by Dr.S.K.Zinatullah dated 13.02.97, the then Head of the Nawab Sher Mohd.Khan Institute of Advance Studies at Malerkotla, does not bear any reference number. Further, no such certificate (copy thereof) is available in the Official records. It is pertinent to mention that no communication/certificate is issued by the answering University without a reference number. It is pertinent to state that Dr.S.K.Zinatullah was also the guide of Mohd.Ayub Khan. However,the same cannot be taken to be an officially issued document in absence of reference*

number on the same. Factual position as regards teaching has already been stated."

(8) Faced with the contents of the aforesaid affidavit filed on behalf of the University, learned counsel for respondent No.6 has raised two fold submissions. Firstly, he urges that respondent No.6 is entitled to establish that the experience certificate issued in his favour by Dr.Zinatullah is based on correct record and is a genuine experience certificate. Secondly, even if, that experience is ignored or excluded, the 6th respondent still possesses the requisite teaching or research experience to earn eligibility for the advertised post.

(9) Learned counsel for respondent No.6 however fairly agrees that the 2nd contention to claim alternative eligibility, now sought to be raised, has not been expressly gone into by learned Single Judge, as the writ petition was allowed primarily on the basis of the experience certificate issued by Dr.Zinatullah.

(10) In the light of the additional facts noticed above, it appears to us that the question of eligibility of respondent No.6 for the advertised post requires re-determination by learned Single Judge, not only with reference to the experience certificate issued by Dr.S.K.Zinatulla, but also whether he shall remain eligible even if that experience is ignored.

(11) The aforesaid questions will have to be answered with reference to the relevant rule contained in the March, 2000, notification of University Grant Commission duly adopted by the University.

(12) For the reasons afore-stated and without expressing any views on the merits or the eligibility claim of respondent No.6, we allow this

appeal; set aside the order passed by Learned Single Judge and remit the case to the learned Single Judge for reconsideration and re-determination of the eligibility issue in the light of observations made hereinabove. The parties are directed to appear before the learned Single Judge as per roster on 06.04.2015.

(13) Learned Single Judge is requested for expeditious disposal of the case subject to any other prioritised matter.

(14) Needless to say that parties shall be entitled to assist learned Single Judge with supplementary pleadings or pleas, if need be. The other issues raised by the parties are also left open.

(SURYA KANT)
JUDGE

17.03.2015
anil

(P.B.BAJANTHRI)
JUDGE