

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.7045/2016

Dr. Gopilal s/o Govardhandas Bhutada

...Versus...

Directorate of Higher Education through its Director, Maharashtra State,
Pune – 411 001 and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.P. Bhandarkar, Advocate for petitioner
Shri A.M. Joshi, AGP for respondent nos.1 and 2
Shri A.M. Gordey, Sr. Adv. with Shri S.A. Marathe, Adv. for respondent nos.3 & 4

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : 20.12.2016

By this petition, the petitioner challenges the list of the ineligible candidates published by the respondent no.4 on 2.12.2016, including the name of the petitioner therein, as being ineligible for appointment to the post of Registrar in Gondwana University.

In pursuance of an advertisement bearing Advertisement No.21/2016 the petitioner applied for the post of Registrar. The application forms were to be submitted online on or before 31.8.2016. A candidate desirous of applying for the post of Registrar was, apart from the education qualifications, required to possess at least 15 years of experience as an Assistant Professor in the Annual Grade Pay of Rs.7,000/- and above or with 8 years of service in the Annual Grade Pay of Rs.8,000/- and above

including as an Associate Professor along with experience in educational administration or comparable experience in research establishment or 15 years of administrative experience of which eight years of experience as Deputy Registrar or an equivalent post. It is not in dispute that as per Clause - 9 in the application form, that refers to the particulars of employment, a candidate applying for the post of Registrar was required to attach the attested photostat copies of the certificates and the service books issued by the employers. Admittedly, though the petitioner claimed to have had the experience as a Lecturer, Assistant Professor and Head in the Colleges in Navi Mumbai, Jalgaon and the Government College of Engineering, Chandrapur respectively, the petitioner did not attach the attested photostat copies of the service books issued by the Colleges in Navi Mumbai, Jalgaon and the Government College of Engineering, Chandrapur.

The question in regard to the invalidation to the claim of the petitioner for appointment was placed before the Committee as per clause 10 of Direction No. 216 of 2016. The Committee scrutinized the application of the petitioner and held that the petitioner was ineligible as the petitioner did not submit the service books in support of his experience, as was required to be possessed in terms of Advertisement No.21/2016. The name of the petitioner was included in the list of ineligible candidates. The petitioner has challenged the said list in the instant petition.

Shri Bhandarkar, the learned Counsel for the petitioner submitted that though Clause - 9 of the application that refers to the submission of the particulars of employment required that the candidates should attach the attested photostat copies of

service books issued by the employers, the said condition is not mandatory. It is stated that the petitioner had clearly mentioned about his experience in the application form. It is submitted that there was no link provided for submission of the service books, while submitting the online forms, whereas the same was provided for tendering the certificates in respect of the administrative experience of the candidates. It is submitted that a Committee constituted in terms of Direction No.216/2016 to consider the validity of the application forms could not have rejected the application of the petitioner only because the petitioner had not attached the attested photostat copies of the service books issued by his employers. It is submitted that the Committee could have decided the validity of the application form only by referring to the criteria mentioned in Sub-Clauses - (a) to (f) of Clause - 10 of Direction No.216/2016. It is submitted that the candidature of the petitioner is wrongly rejected by the respondent – University. It is submitted that the Joint Director of Higher and Technical Education has informed the Hon'ble Vice Chancellor of the Gondwana University vide communication dated 13.12.2016 that it would not be proper to reject the application solely because the candidate has failed to attach the attested photostat copies of the service books issued by his employers.

Shri Gordey, the learned Senior Counsel for the respondent – University has supported the order of the University. It is submitted that the filing of service books along with the application was mandatory in order to evaluate the criteria of experience, as prescribed by the University. It is submitted that 15

years of experience as an Assistant Professor in the Annual Grade Pay of Rs.7,000/- and above or 8 years of service in the Annual Grade Pay of Rs.8,000/- and above clearly reflects some importance to the condition of attaching the attested photostat copies of the service book along with the application. It is stated that a person who gets appointed to the post of Associate Professor or Assistant Professor has to qualify strict service conditions prescribed by the University Grants Commission with approval from the University and the Director of Higher Education. It is stated that in the circumstances of the case, it cannot be said that the criteria in regard to the submission of the service book was not mandatory. It is stated that a service book could reflect the achievements of a candidate during his career as also the adverse entries, if any. It is stated that whether a person actually possesses the work experience can only be evaluated and confirmed from the entries in the service book. It is stated that the petitioner cannot be heard to say that the condition of attaching the attested photostat copies of service books issued by the employers along with the application, is not mandatory.

Admittedly, though the petitioner had stated about his experience as a Lecturer, Assistant Professor and Head and Associate Professor and Incharge Principal in a couple of Colleges in Navi Mumbai, College in Jalgaon and Government College of Engineering, Chandrapur respectively, the petitioner had not submitted the attested photostat copies of the service books issued by the Colleges referred to in the application form, along with the application. The criteria of experience was an essential criteria and whether a candidate possesses the requisite experience or not

could have been gauged by the University or for that matter the Committee at the time of scrutiny of the applications. Though the petitioner had mentioned about his experience in several Colleges, the petitioner had not attached the attested photostat copies of the service books issued by the Colleges to the application. It is clearly mentioned in the application that every candidate would be required to attach the attested photostat copies of certificates and service books issued by the employers. If it is the claim of the petitioner that the petitioner had attached the copies of the certificates along with application, it is difficult to accept as to why the petitioner did not submit the attested photostat copies of the service books issued by the six employers with whom the petitioner claims to have worked from 1999 to 2014. It is rightly submitted on behalf of the respondent – University that the submission of the copies of the service books was mandatory in order to critically evaluate the criteria of mandatory experience prescribed by the University as whether a candidate really possesses the required experience, could have been considered by the Committee while scrutinizing the applications. The condition pertaining to the attachment of the attested photostat copies of the service books issued by the employers is clear and unambiguous. At least, a candidate desirous of seeking his appointment as a Registrar ought to have either challenged the condition in the advertisement, if according to him, the condition was onerous and it was difficult for him to attach the attested photostat copies of the service books before applying for the said post or ought to have attached the photostat copies of the service book to the application form. Having applied

for the said post, without raising a challenge to the condition of attaching the attested photostat copies of the service books, the petitioner cannot effectively challenge the rejection of his candidature. In the circumstances of the case, we do not find any merit in the submission made on behalf of the petitioner that the condition pertaining to the submission of the attested photostat copies of the service books is not mandatory. So also, we do not find any merit in the submission made on behalf of the petitioner that there was no link provided for submission of the attested photostat copies of the service books issued by the employers of the candidates. Since the petitioner failed to attach the attested photostat copies of the service books issued by the six employers, with whom the petitioner claims to have worked as a Lecturer, Assistant Professor, Associate Professor and Incharge Principal, the action on the part of the respondents of rejecting the candidature of the petitioner cannot be faulted with. While holding so, we also reject the submission made on behalf of the petitioner that since the Committee was entitled to decide the validity of the applications only in respect of the criteria prescribed in Sub-Clauses (a) to (f) of Clause - 10 of Direction No.216 of 2016 and since the Committee was not empowered to invalidate the applications for not attaching the attested photostat copies of the service books, the action of the Committee in invalidating the application of the petitioner is bad in law. Sub-Clause (a) of Clause 10 of Direction No.216 of 2016 clearly empowers the Committee to consider whether the application is complete in respect of information, experience etc. The application of the petitioner was surely incomplete in respect of

his experience as the petitioner had not tendered the attested photostat copies of the service books in support of his experience.

Since we do not find any fault in the action on the part of the respondent – University in including the name of the petitioner in the list of ineligible candidates, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

Wadkar