

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

**CWP No.3391 of 2016 (O&M)
Date of Decision: 11.07.2016**

Dr. Vijay Pal and another

... Petitioners

Versus

Kurukshetra University, Kurukshetra and another

... Respondents

CWP No.3392 of 2016 (O&M)

Dr. Ashok Kumar

... Petitioner

Versus

Kurukshetra University, Kurukshetra and another

... Respondents

CWP No.3393 of 2016 (O&M)

Dr. Harwinder Singh

... Petitioner

Versus

Kurukshetra University, Kurukshetra and another

... Respondents

CWP No.3394 of 2016 (O&M)

Dr. Chetan Sharma and another

... Petitioners

Versus

Kurukshetra University, Kurukshetra and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. R.K.Malik, Senior Advocate with
Mr. Kuldeep Sheoran, Advocate,
for the petitioners.

Mr. A.S.Virk, Advocate,
for the respondents.

TEJINDER SINGH DHINDSA, J.(ORAL)

With the consent of counsel for the parties, CWP Nos.3391 of

2016 titled as Dr. Vijay Pal and another Vs. Kurukshetra University, Kurukshetra and another, CWP No.3392 of 2016 titled as Dr. Ashok Kumar Vs. Kurukshetra University, Kurukshetra and another, CWP No.3393 of 2016 titled as Dr. Harwinder Singh Vs. Kurukshetra University, Kurukshetra and another and CWP No.3394 of 2016 titled as Dr. Chetan Sharma and another Vs. Kurukshetra University, Kurukshetra and another are taken up for final disposal together as identical issue has been raised therein.

For the sake of convenience, the facts are being noticed from CWP No.3391 of 2016.

The respondent University advertised various posts including the post of Assistant Professor, Sanskrit in Directorate of Distance Education, Kurukshetra. Interview for such post was held on 7/8.8.2014. Likewise in the connected petitions other posts were advertised, even though the dates of the interviews held were different. Petitioners in these four connected petitions appeared for the interview before the duly constituted Selection Committee. As per procedure envisaged under the respondent University Calendar, the proceedings of the Selection Committee were to be placed before the Executive Council of the University for approval. It so transpires that even though the proceedings of the Selection Committee for the posts in question in which the petitioners had appeared had been finalized and a ranking list had been prepared but such proceedings were not placed before the Executive Council. Repeated representations in such regard are stated to have been filed by the petitioners.

Faced with a situation of inaction on the part of University, the

petitioners herein were constrained to approach this Court by filing CWP No.10617 of 2015 (Dr. Vijay Pal and another Vs. Kurukshetra University, Kurukshetra and others), CWP No. 7388 of 2015 (Dr. Chetan Sharma Vs. Kurukshetra University, Kurukshetra and others), CWP No.13642 of 2015 (Dr. Sanjeev Kumar Sharma Vs. State of Haryana and others) and CWP No.8109 of 2015 (Harwinder Singh and others Vs. State of Haryana and another) seeking directions to the respondent University to place the proceedings of the Selection Committee before the Executive Council for approval.

The aforementioned four writ petitions were taken up together and disposed of vide common order dated 28.11.2015 at Annexure P-6. Directions were issued to respondent, Kurukshetra University to place the recommendations of the Selection Committee before the Executive Council of the University for taking an appropriate decision in regard to the selection. A time frame of two months was stipulated for completion of such exercise.

The present set of four petitions has been filed assailing the decision of the Executive Council of Kurukshetra University, Kurukshetra dated 25.01.2016 (Annexure P-7 in CWP No.3391 of 2016) in terms of which the Executive Council has resolved that the posts in question be re-advertised in the light of an earlier decision of the Executive Council as per resolution No.26 dated 16.11.1963.

Learned Senior counsel representing the petitioners in these four connected petitions would contend that decision of the Executive Council in its meeting held on 25.01.2016 contained in the impugned order is totally arbitrary. In this regard, it has been argued that earlier in point of

time, the stand taken on behalf of the University was that even though interviews had been held in the month of August, 2014 yet the proceedings could not be approved by the Executive Council as Model Code of Conduct had been enforced on account of the Assembly elections. After lifting of the Model Code of Conduct, University had taken a stand that the State Government had imposed a ban on filling up of the vacant posts and in spite of various letters having been addressed to the Director General, Higher Education, Haryana seeking clarification yet no response had been forthcoming. Senior counsel would submit that such stand did not find favour with the coordinate Bench of this Court while passing the order dated 28.11.2015 and disposing of CWP No.10617 of 2015 and other connected petitions and directions had been issued to the University to place the recommendations of the Selection Committee before the Executive Council for taking an appropriate decision.

Per contra, Mr. A.S.Virk, learned counsel representing the University would justify the decision by contending that the judgment and order dated 28.11.2015 passed by this Court in CWP No.10617 of 2015 and other connected petitions was duly complied with inasmuch as the University was obligated to place the matter before the Executive Council and the same has since been done.

Counsel appearing for the University clarified that the impugned decision has been taken in the light of an earlier decision of the Executive Council contained in resolution No.26 dated 16.11.1963 and as per which a ranking list prepared by a Selection Committee would normally remain valid only for a period of six months. This Court has further been informed that the matter after having been considered by the Executive

Council in its meeting dated 25.01.2016 was again placed before the Executive Council in a subsequent meeting held on 31.03.2016 and there has been a partial modification to the extent that it has been resolved that the sealed envelopes in relation to proceedings of the Selection Committee be not opened in the light of an executive council resolution No.26 of 16.11.1963. It is, however, conceded by counsel appearing for the University that even as per proceedings of the Executive Council dated 31.03.2016, the effect would be the same i.e. posts in question are now to be re-advertised and by adopting a process of fresh selection.

Having heard counsel for the parties at length and having perused the pleadings on record, this Court is of the considered view that the impugned decision taken by the Executive Council in its meeting held on 25.01.2016 at Annexure P-7 and reiterated in the subsequent meeting dated 31.03.2016 as regards re-advertisement of the posts cannot sustain.

There is no dispute as regards the factual position that the petitioners in these four connected petitions had applied for the posts in question and had appeared before a duly constituted Selection Committee. It has also gone uncontroverted that proceedings of the Selection Committee in pursuance to the interviews conducted were indeed finalized and a ranking list was prepared.

In the facts of the present case, proceedings of the Selection Committee having been furnished in a sealed cover, the respondent University had sat over the matter and not placed the same before the Executive Council. University was attempting to justify its action on the strength of the Model Code of Conduct having been enforced by the State in the first instance and after lifting of the Model Code of Conduct was

seeking shelter behind a ban that had been imposed again by the State Government for filling up of the vacant posts. This Court in the judgment and order dated 28.11.2015 while disposing of CWP No.10617 of 2015 and other connected petitions had frowned upon and disapproved of such stand by observing that the University is an autonomous body established under the Kurukshetra University, Kurukshetra Act, 28 of 1956 and it is the Vice-Chancellor of the University being the Principal Executive and Academic Officer of the University and thereby exercises general supervision and control over the affairs of the University. It had further been observed that the State Government has no role in respect of appointments to be made by the University.

It thus clearly emerges that the University without any justifiable basis had not placed the proceedings of the Selection Committee/ranking list before the Executive Council. It was expected by the University to have acted in the matter with a sense of promptitude. The same, however, was not done. Had the University placed the proceedings of the Selection Committee before the Executive Council the rights of the present petitioners in relation to the proceedings of the Selection Committee/ranking list would have crystalized well within the time frame of six months against the backdrop of the decision taken by the Executive Council on 16.11.1963 vide resolution No.26 wherein a period of validity of six months pertaining to the ranking list had been taken.

Under such circumstances, it would not be open for the University to ignore the ranking list/proceedings of a duly constituted Selection Committee in pursuance to interviews having been conducted and in which the petitioners herein had participated. It is held that resolution

No.26 passed by the Executive Council on 16.11.1963 with regard to the period of validity of the ranking list would have no applicability in the peculiar facts and circumstances of the present case.

There is yet another aspect in the matter. When the earlier writ petitions i.e. CWP No.10617 of 2015 and other connected petitions were filed and taken up for final disposal on 28.11.2015, such objection as regards the validity of the ranking list having expired was open to have been raised before this Court. Concededly, the same was not done. Finding returned by the Court on 28.11.2015 was that there is no impediment in the respondent University taking a decision regarding ***approval of the proceedings of the Selection Committee***. In other words, the directions were categoric and clear i.e. the matter to be placed before the Executive Council for consideration as regards approval of the proceedings of the Selection Committee. To the contrary, the respondent University has proceeded in a fashion whereby the proceedings contained in a sealed cover have not been opened and rather a modus operandi has been adopted to by pass the directions of this Court contained in the order dated 28.11.2015 and by shifting its stand and taking a view that the ranking list itself prepared by the Selection Committee in pursuance to the interviews wherein the petitioners had participated had outlived its life. Suffice it to observe that to such extent the action of the respondent University can also be seen as contemptuous.

In view of the reasons recorded hereinabove, these writ petitions are allowed. The impugned decision of the Executive Council of the University taken in its meeting dated 25.01.2016 and reiterated in a subsequent meeting dated 31.03.2016 as regards re-advertising the posts in

question and to which the petitioners had applied for and had appeared in the interviews is held to be bad in law.

Directions are issued for the proceedings of the Selection Committee in relation to the posts in question to be placed before the Executive Council for a decision to be taken thereupon as regards approval or otherwise on merits.

Such exercise be concluded within a period of three months from the date of passing of this order.

Writ petitions are allowed in the aforesaid terms.

11.07.2016

vandana

(TEJINDER SINGH DHINDSA)
JUDGE