

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

**CWP No. 1104 of 2014**  
**Reserved on:- 08.12.2017**  
**Date of decision: 20.12.2017**

Khushpreet Singh Brar

....Petitioner(s)

Versus

Vice Chancellor, Panjab University, Chandigarh and others

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA**

Present: Ms. Anjali Khosla, Advocate,  
for the petitioner.

Ms. Alka Chatrath, Advocate,  
for respondents no. 1 and 2.

Mr. Gaurav Rana, Advocate,  
for respondent no. 3.

**G.S.SANDHAWALIA, J.**

The present writ petition under Articles 226 and 227 of the Constitution of India has been filed for quashing the appointment of respondent no. 3 as Assistant Professor in the Department of Library and Information Science approved as per the meeting of the Syndicate dated 15.12.2012 (Annexure P-2) and whereas the petitioner has been put on the wait list in spite of being more meritorious.

The prayer is based on the plea that the said private respondent had appeared in the UGC examination on 24.06.2012 and cleared the same on 18.09.2012 which is after the cut off date of 31.01.2012 and is in violation of clause no. 6 of the detailed instructions. A plea has also been further taken that out of five sanctioned posts, only four have been filled and one is still vacant against which the petitioner can be adjusted.

The advertisement in question i.e. No. 1 of 2012 (Annexure P-

1) was issued whereby, the cut off date was fixed at 31.01.2012 for various posts including Assistant Professors. The essential qualifications as per the advertisement read thus:-

*“(i) Good academic record as defined by the concerned University with at least 55% marks (50% for SC/ST/Physically & Visually Handicapped) or an equivalent grade in a point scale wherever grading system is followed at the Master's degree level in **Library & Information Science** from an Indian University or an equivalent degree from an accredited foreign University.*

*“(ii) Besides fulfilling the above qualifications, the candidate should have either cleared the National Eligibility Test (NET) conducted by the UGC, CSIR **OR** should have obtained Ph.D Degree in the relevant subject.”*

The eligibility was to be determined on the basis of qualifications acquired as per Clause 6 which was upto the last date fixed for receipt of application. The same reads thus:-

*“6. The eligibility of every candidate will be determined on the basis of qualifications acquired and communicated to the office by him/her up to the last date fixed for receipt of applications.”*

The petitioner and the private respondent appeared in the interview on 09.12.2012 and it is his plea that the private respondent had been selected on 15.12.2012 (Annexure P-2) which he came to know on 20.03.2013 after getting information under the Right to Information Act, 2005. It came to his knowledge that he had secured 65.09 marks whereas, respondent no. 3 had secured 66.30 marks. The said respondent had been given 10 marks for the qualification of the UGC NET examination which had accordingly been given. Accordingly, it was his case that the said

respondent had appeared on 24.06.2012 in the said examination and cleared the same on 18.09.2012, which would be apparent from Annexure P-4. It is accordingly his case that the said respondent cannot be given the benefit of 10 marks for his UGC examination having cleared the same after cut off date and if the benefit of 10 marks is not granted, the said respondent will only have 56.30 marks. Resultantly, the present petition was filed.

The stand of respondents no. 1 and 2 is that the said respondent was most suitable candidate as he possessed Ph.D degree in the relevant subject and he also qualified the NET test before the date of interview and was more suitable for the post of teaching and engaging in guide research whereas the petitioner did not have the Ph.D degree in the relevant subject. It is in such circumstances, the decision of the Selection Committee was justified in the meeting of the Senate dated 22.12.2012 (Annexure R-1/1) and the appointments made in pursuance of the said advertisement had been approved of the candidates who were eligible on the date of interview. Reliance was placed upon the minutes of the meeting that the said respondent has done his Ph.D degree before the last date of submission of application form. Reliance was placed upon the principle that having participated in the selection for appointment to the post of Assistant Professor, the petitioner was estopped from his own act to challenge the selection process. It is accordingly submitted that the said respondent was eligible to apply for the post of Assistant Professor and that he possessed the Ph.D degree alongwith other necessary qualifications and resultantly, the appointment has been justified.

The private respondent took the plea that a uniform procedure had been followed for other 50 appointments for several other teaching

departments. The said respondent possessed the requisite qualification before the date of interview and, therefore, he had scored 66.30 marks in the interview and was much more suitable and meritorious. The plea taken was that there was delay in approaching the writ court by 13 months and that he had been working as a College Librarian in the GGSDS College, Chandigarh and had joined as Assistant Professor and has altered his position and, therefore, dismissal of the writ petition was prayed for.

A perusal of the comparative merit chart would go on to show that the petitioner has been granted the benefit of the UGC Net examination which was one of the essential qualification and his merit goes upto 65.09. There is no doubt that there is a cut off date of 31.01.2012. There is no further denial that the private respondent did not have the requisite NET qualification on the said date but in spite of that, he has been given the benefit of 10 marks on 09.12.2012 whereby, his merit has soared to 66.530. If the said benefit is denied to him, it would come down to 56.530 and the petitioner would obviously be at a higher pedestal having higher merit. On account of taking the said certificate into consideration, the Selection Committee has ignored the sacrosanctity of the cut off date at the cost of the petitioner who was placed in the wait list, as noticed. At that point of time, there was only one vacancy as such and, therefore, he could not be adjusted against the said post.

Keeping in view the said facts on 24.10.2017, the University was given an opportunity to show adjust the petitioner and suitably accommodate him as the respondent had to make way for the petitioner and he has been working since the last almost 5 years and has altered his position as per the plea taken in the written statement by resigning from

another post. Resultantly, affidavit dated 07.12.2017 of the Registrar of the University has now been filed wherein, the plea is taken that the petitioner can be adjusted against two vacant sanctioned posts of Assistant Professors in the Department of Library and Information Science. Reliance has accordingly been placed upon letter dated 19.06.2017 (Annexure R-1/2) issued by the Ministry of Human Resource Development, Department of Higher Education to the Secretary, University Grants Commission that the University is to seek the concurrence of MHRD/UGC for creating new academic/non-academic posts or filling up of any vacant post in future. It has accordingly been submitted that permission has been sought vide communications dated 06.12.2017 (Annexure R-1/3) for grant of approval against one vacant post.

Resultantly, keeping in view the above, this Court is of the opinion that the present writ petition is liable to be allowed. Accordingly, necessary directions are issued to the respondent-University to issue appointment letter to the petitioner within a period of one month from today and seek necessary concurrence required of the competent authorities. In case the said concurrence is not received in favour of the petitioner, the appointment of respondent no. 3 shall stand quashed and the petitioner will be appointed against the said respondent being higher in merit and the said respondent having been wrongly granted the benefit of 10 marks.

20.12.2017  
shivani

(G.S. SANDHAWALIA)  
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No

