

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19103 of 2012.

Date of Decision:-23.05.2017.

Dr. Kuldeep Singh

.....Petitioner

Versus

Kurukshetra University, Kurukshetra through its Registrar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. C.R. Dahiya, Advocate for the petitioner.

Mr. Shireesh Gupta, Advocate for respondent Nos.1 to 3.

Mr. A.S. Virk, Advocate for respondent No.4.

P.B. BAJANTHRI, J. (Oral)

Petitioner has questioned the selection and appointment of 4th respondent to the post of Assistant Professor in History in the Directorate of Distance Education and further sought for a direction to consider his name for selection and appointment to the post of Assistant Professor (History), in the Directorate of Distance Education, Kurukshetra University, Kurukshetra. Respondent-University issued advertisement to fill up the post of Assistant Professor (History) on 15.9.2011 while fixing the last date for submission of application as 3.10.2011. Petitioner and the 4th respondents are candidates for the post of Assistant Professor (History). For the purpose of awarding marks, a criteria has been laid down which reads as under:-

“1. Book with ISBN No.(Independent/Jointly Both):-

10 Marks

2. Chapters/Articles in the Book with ISBN No.:-

05 Marks

3. Research Articles in International Journals:-

with ISSN No.

10 marks

4. *Research Articles in National Journals with ISSN No.* 05 Marks

5. *Articles in Edited Books with ISBN No.:-* 05 Marks

6. *Independent or Jointly Written Articles:- in Research Journals with ISSN No.* 05 Marks”

2.) In this regard general instructions have been issued along with the advertisement. Relevant extract of instructions read as under:-

*“5. 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.***

*10. Application not supported with required application fee, attested copies of certificates/testimonials/ reprints of Research Publications, title page (s) and contents page(s) of each Journal in which the publication under reference were published and the applications **received after the expiry of last date will be liable to be rejected.**”*

3.) Petitioner has published 5 papers for which he is entitled for 25 marks for publication of papers. Accordingly, he was awarded 25 marks, whereas, the 4th respondent has been awarded for publication of 5 papers to the extent of 25 marks and 4th respondent is more merited than the petitioner. Therefore, 4th respondent was selected and appointed.

4.) Learned counsel for the petitioner submitted that 4th respondent is not entitled for 25 marks for publication of 5 papers and he (4th respondent) is entitled only 5 marks for one paper. It was submitted that while filling the application form, 4th respondent has stated that he had published 2 papers whereas one of the paper is defective to the extent that it is without “ISSN number”. For the purpose of awarding marks of

has only ISSN number for one paper. It was further contended that the other 3 papers published by 4th respondent were subsequent to the last date i.e. 3.10.2011. Therefore, 4th respondent is entitled to only 5 marks and not 25 marks for publication of 5 papers. Hence, it was submitted that selection and appointment of 4th respondent is arbitrary and illegal.

5.) Per contra learned counsel for the University submitted that 4th respondent has submitted an application for acceptance of 3 more papers which was published and it was accepted by the University and the University proceeded to award marks for subsequent papers which were published by the 4th respondent. Similarly, it was submitted that candidates who have published papers beyond 3.10.2011 were also entertained and their papers have been accepted while awarding marks. Therefore, there is no error committed by the University in accepting the 4th respondent's 3 papers published subsequent to the last date stipulated for submission of application form i.e., 3.10.2011. Hence, petitioner has not made out a case so as to interfere with the selection and appointment of 4th respondent.

6.) Learned counsel for the 4th respondent submitted that having regard to the general instructions para 10 cited (supra), it is evident that for the purpose of acceptance of research publication (each Journal), it is for the selecting authority to accept or not to accept since the word used is *“applications received after the expiry of last date will be liable to be rejected.”* whereas, in the 4th respondent's case, the University have accepted. Therefore, it is a discretionary power vested with the selecting authority. Hence, there is no lacuna or arbitrariness in accepting the latter publication of 3 papers i.e. subsequent to the last date i.e. 3.10.2011. It was further contended that in the University's reply to CWP they have stated as

under:-

“The answering respondent, however submits that a number of applicants had not annexed their publications along with their application forms. It was under these circumstances it was necessary that the publications produced by the candidates at the time of interview were taken into consideration by the selection committee.”

Having regard to the admission by the University relating to acceptance of papers subsequent to the last date no interference is called in respect of selection and appointment of 4th respondent.

7.) Heard learned counsel for the parties.

8.) Crux of the matter is whether the selecting authority can entertain the educational qualification records subsequent to the last date or not. Undisputedly advertisement for the post of Assistant Professor was issued on 15.9.2011 while fixing the last of submission of application as 3.10.2011. Therefore, the University is required to examine candidates' papers and qualification with reference to last date i.e. 3.10.2011. Whatever the qualification or papers are required to be examined should be prior to 3.10.2011 and not later than such date. Admittedly in the present case, 4th respondent in his application form, he has furnished information that he has published 2 papers. One of the paper is defective to the extent that it is without ISSN number. Therefore, 4th respondent was entitled to only for 5 marks for publication of one paper. 4th respondent's application/representation dated 12.1.2012 to accept 3 more publication of papers in order to give more marks, has been entertained by the University.

Undisputedly, 4th respondent while filling up the application form did not possess 5 papers, he had only 2 papers as on the last date of submission of

application i.e. 3.10.2011. Therefore, entertaining any document by the University subsequent to 3.10.2011 is contrary to the advertisement. In respect of the contention of 4th respondent that University has not rejected petitioner's application with reference to publication of papers vide para 10 of the general instructions, it is to be noted that petitioner's candidature would be rejected with reference to general instructions read with the last date of submission of application form i.e. 3.10.2011. 4th respondent has made available only 2 papers. Therefore, entertaining papers published by the 4th respondent subsequent to 3.10.2011 is liable to be rejected. In respect of word published, it was submitted by 4th respondent's counsel that once the paper is accepted it is deemed that it is published unless and until it is notified admissions for publication that cannot be treated as acceptance. Moreover, the 4th respondent was possessing only 2 papers as on 3.10.2011. In view of these facts and circumstances, selection and appointment of 4th respondent to the post of Assistant Professor (History) in the Directorate of Distance Education is hereby set aside. Further the respondent-University is hereby directed to consider the petitioner's claim for selection and appointment for the post of Assistant Professor (History) in the Directorate of Distance Education within a period of 2 months from today. If the petitioner is otherwise eligible, necessary order of appointment shall be issued. Petitioner's appointment is only on notional basis.

9.) With the above observations, petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

May 23, 2017.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.