

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

CWP No.26129 of 2013

Date of Decision:14.02.2017

Anju

... Petitioner

Vs.

Guru Jambheshwar University of Sciences and Technology, Hisar and
others

... Respondents

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

Present : Mr. Ram Niwas Sharma, Advocate for the petitioner.

Mr. Girish Agnihotri, Sr. Advocate with
Mr. Arvind Seth, Advocate for respondents No.1 and 2.

Mr. R.K. Malik, Sr. Advocate with
Mr. Ramandeep Singh, Advocate for respondent No.5.

P.B. BAJANTHRI J. (Oral)

In the present petition, the petitioner has questioned the selection and appointment of respondents No.3 to 6 to the post of Assistant Professor in Haryana School of Business. Further he has sought for direction to make fresh selection amongst the candidates having the requisite essential qualification fulfilling the eligibility criteria.

The petitioner and respondents No.3 to 6 amongst others are candidates for the recruitment to the post of Assistant Professor in Haryana School of Business. Pursuant to the advertisement vide Annexure P-1, the respondent-University proceeded with the selection whereas respondents No.3 to 6 and others were selected and appointed to the post of Assistant Professor in Haryana School of Business. Thus, the petitioner is unsuccessful candidate for the post. Hence, the present petition.

Learned counsel for the petitioner submitted that he will give

up his claim against respondents No.3 to 4 and 6. He would restrict his claim of selection and appointment to the post of Assistant Professor in Haryana School of Business only against respondent No.5.

Learned counsel for the petitioner submitted that petitioner is fully eligible for the post of Assistant Professor in Haryana School of Business. He had the essential qualification prescribed for the post i.e. Master degree in Business. Whereas respondent No.5 who has been selected and appointed, he had the qualification of M.A. Economics. M.A. Economics is not one of the qualification prescribed for the post of Assistant Professor in Haryana School of Business. Hence, consideration of his name by the University is contrary to the Rules of Recruitment. Therefore, his selection and appointment is liable to set aside. Consequently, vacancy against respondent No.5 is required to be filled up in accordance with the Rules of Recruitment governing the post among the eligible candidates.

On the other hand, learned counsel for University submitted that no doubt 5th respondent do not have the qualification prescribed for the post. However, he had the qualification of M.A. Economics which would fall under “In Relevant Management Related Discipline”. Further, learned counsel for the University relied on UGC regulation which also prescribed qualification which has been prescribed by the University for the purpose of appointment to the post of Assistant Professor in Haryana School of Business. Therefore, M.A. Economics is equated to that of “In Relevant Management Related Discipline”. It is further contended by the learned counsel for the University that large number of candidature with M.A. Economics has been taken into consideration and they have been selected

and appointed like the 5th respondent who have not been arrayed as party to the proceedings. Thus, the petitioner has not made out a case against 5th respondent.

Learned counsel for the 5th respondent vehemently submitted that M.A. Economics subjects have been verified by the UGC, Indian Institute of Management, Lucknow and respondent-University wherein the M.A. Economics has been taken note of by the experts and they have given opinion which reads as under:

Question	Reply	
1	The relevance of subject of interdisciplinary nature of subject is required to be decided by the concerned appointing authority with the help of subject experts in the concerned/related field and as per their teaching requirements.	
Query		Reply
Whether Economics, Commerce and Psychology are considered relevant discipline/subject for appointment to the post of Assistant Professor/Lecturer in Department of Management/Business Administration/School of Business in your University/Institution (IIM)		“Yes”

In view of the experts opinion by the competent authority like UGC, and the Indian Institute of Management, Lucknow and respondent-University. Respondent-University have considered the candidature of the 5th respondent and other similarly situated candidates, even though, they had the qualification of M.A. Economics with reference “In Relevant Management Related Discipline”. It was further pointed out by learned counsel for the 5th respondent that the respondent-University themselves have constituted a committee of expert. They have also opined that M.A. Economics could be considered for the purpose of selection and appointment to the post of Assistant Professor in Haryana School of Business with reference to “In Relevant Management Related Discipline”.

Thus, the petitioner has not made out a case so as to interfere with the

selection and appointment of the 5th respondent.

Heard learned counsel for the parties.

Crux of the matter in the present case is whether the fifth respondent fulfill the requisite qualification prescribed for the post of Assistant Professor in Haryana School of Business or not?

Relevant Rules reads as follows:

“QUALIFICATION FOR THE POST OF ASSISTANT PROFESSOR IN HARYANA SCHOOL OF BUSINESS

(i) Essential:

1. First Class Masters Degree in Business Management/Administration/in a relevant management related discipline or first class in two year full time PGDM declared equivalent by AIU/accredited by the AICTE/UGC;

OR

2. First Class graduate and professionally qualified Chartered Accountant/Cost and Works Accountant/Company Secretary of the concerned statutory bodies.

(ii) Desirable:

1. Teaching, research, industrial and/or professional experience in a reputed organization;

2. Papers presented at Conferences and/or published in referred journals.”

It is undisputed that 5th respondent had the qualification of M.A. Economics. Therefore, M.A. Economics qualification is not one of qualification prescribed for the post of Assistant Professor in Haryana School of Business. The respondent-University and 5th respondent are of the view that M.A. Economics would fall within the ambit of “In Relevant Management Related Discipline” which is one of the qualification prescribed for the post. In support of their contention, they relied on experts' opinions by UGC and Indian Institute of Management, Lucknow to contend

that the M.A. Economics holder is entitled to participate in the process of recruitment for the post of Assistant Professor in Haryana School of Business and such a qualified person is eligible for the post. The respondent-University after considering the experts opinion on the subject while equating M.A. Economics to contend that M.A. Economics holder is an eligible candidate for the post of Assistant Professor in Haryana School of Business. They have not issued amended advertisement so as to invite eligible candidates with the qualification of M.A. Economics. Perusal of rules of recruitment of recruitment nowhere it is defined as to what is meant by or definition of “In Relevant Management Related Discipline”. In the absence of definition, the University proceeded to consider candidature of those, who had the qualification of M.A. Economics with reference to experts opinions who have opined that M.A. Economics would fit into “In Relevant Management Related Discipline”. Thus, the respondent-University has violated Articles 14 and 16 of the Constitution in considering M.A. Economics subject for the purpose of selection and appointment to the post of Assistant Professor in Haryana School of Business confidentially. In other words, the respondent-University should have given wide publicity that a candidate with M.A. Economics qualification is eligible for the post of Assistant Professor in Haryana School of Business. Had they notified the same in that event eligible M.A. Economics candidates would have participated in the selection process. Denial of right to make application by the eligible M.A. Economics candidates is in clear violation of Articles 14 and 16 of Constitution. To that extent, respondent-University have committed serious error in considering qualification of M.A. Economics among others and the 5th respondent i.e., behind the back of the eligible

degree holders in M.A. Economics. Therefore, the selection and appointment of the 5th respondent to the post of Assistant Professor in Haryana School of Business is set aside. The respondents-University are directed to re-examine the claim of the petitioner to the post of Assistant Professor in Haryana School of Business, if he is otherwise eligible, and consider his grievance on par with the more merited candidates if any available than the petitioner and proceed to fill up the vacancy of 5th respondent. The above exercise shall be completed by the respondents-University within a period of three months from today.

Petition stands allowed.

14.02.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No