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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3096/2015

SURENDER KUMAR YADAV

..... Petitioner

Through: In person

versus

JAWAHARLAL NEHRU UNIVERSITY

AND ORS

..... Respondents

Through: Ms. Monika Arora, Adv. with Mr.
Kushal Kumar, Adv. with Mr. Vibhu
Tripathi, Adv. for R-1/JNU

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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13.07.2017

1. The present petition has been filed by the petitioner with the following prayers:

“In the above circumstances the applicant prays that this Hon’ble Court may graciously be pleased to:

a. Stay the joining of Dr. Pawan Kumar Joshi as Professor at School of Environmental Sciences in JNU.

b. Quash / cancel whole selection procedure adopted by JNU authorities to appoint Dr. Pawan Kumar Joshi to cancel his appointment as Professor.

c. Direct JNU authorities to follow instructions and Orders of Government, UGC and Ministry of HRD for disabled candidates strictly, for Equal Opportunities, Protection of Rights and Full Participation, as enumerated in Disability Act in appointment as faculty members

d. Pass such other order or orders as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”

2. It is the case of the petitioner that respondent no.1 / University issued an advertisement for making appointment to various posts, including Professor (Environmental Sciences). The said vacancy is an unreserved

vacancy. It is the case of the petitioner that he meets the essential qualifications for the said post inasmuch as he has a Doctorate Degree and has 10 years of experience in Post-Graduate teaching with various publications to his credit and a good Academic Performance Indicator. Unfortunately, despite his excellent credentials he was not called for the interview.

3. The petitioner would also submit that in the past also he had applied for the post of Professor and was called for interview. The action of the respondent in not calling him for the interview is arbitrary and malafide as he has filed various petitions in this court.

4. On the other hand, the learned counsel for the respondent nos. 1 and 2, would contend that a candidate is called for the interview, only, if he is shortlisted on the basis of essential qualifications / specialized / advertised / screening criteria adopted by the concerned screening committee and verification of the required API Score. She also states, as against one vacancy, 17 applications were received, the screening committee had evolved a screening criteria. It is her submission that 13 applicants including petitioner did not meet the said criteria. The petitioner had not supervised award of three Phd's. In other words, only 4 applicants met the criteria and were called for the interview. She also states the screening of applications has been stipulated in the advertisement itself. In that regard, she draws my attention to clause 9 of the General Instructions of the advertisement at Page 167 of the paper book in support of her contention.

5. The petitioner opposes the pleas advanced by the learned counsel for

the respondent nos. 1 and 2 by contending the respondent nos. 1 and 2 have no power to fix a screening criteria if a candidate meets the eligibility conditions in terms of the advertisement. That apart it is his submission that the screening criteria has been fixed only to oust the petitioner from the process of interview. He also states that he being a person with disability, the respondents were required to follow the provisions under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation Act) 1995 and in support of his submission he relies on the counter-affidavit filed by respondent nos. 1 and 2 vide Para 39 and 40 to contend that the relaxed standards need to be applied and there has to be a representation, by a Member who is physically challenged, in the Selection Committee which having been violated, the decision is liable to be set aside.

6. Having heard the petitioner and the learned counsel for the respondents 1 and 2, the short question which arises for consideration is whether the respondents could have in the facts evolved a mechanism of screening criteria and then oust the petitioner from the process of interview.

7. There is no dispute that only one vacancy of Professor (Environmental Science) was advertised. In view of order dated 18th April, 2017, the Id. Counsel for respondent nos.1 and 2 has placed before me the proceedings of the screening committee, which had screened the applications of various applicants including the petitioner. From the proceedings of the screening committee, it is noted 17 applications were received for the post. It is also noted that following screening criteria was evolved by the screening committee.

1. *Minimum three Ph.ds. awarded.*

2. *Cumulative impact factor of ten best publications in last ten years ≥ 25 .*
3. *Corresponding author in at least five publications in the last ten years.*
4. *Experience in the area of specialisation of advertisement.*

8. The first criteria being an applicant must have supervised award of Ph.D to three researchers. As per the petitioner himself (Page 114 of the paper book), on the date of application he had guided / supervised two Ph.D. Scholars; namely Ms. Meena Kumari, who has already obtained Ph.D and the second Scholar was in the last stage of submission, it is clear, the petitioner did not meet the first of the four shortlisting criteria evolved by the screening committee.

9. Learned counsel for the respondent nos. 1 and 2 is right in her submission that as the petitioner did not meet the criteria no.1 of the screening criteria, the other criteria were not looked into. So far as the plea of the petitioner that such criteria could not have been evolved by the respondent nos.1 and 2 is concerned, the answer to the said plea lies in Para 9 of the General Instructions stipulated in the advertisement, in the following manner:

“The prescribed essential qualifications are the minimum and the mere possession of the same does not entitle candidates to be called for interview. Where the number of applications received in response to an advertisement is large and it will not be convenient or possible to interview all the candidates, the University, at its discretion, may restrict the number of candidates to a reasonable limit on the basis of qualifications /

experience higher than the minimum prescribed in the advertisement.”

10. Even the plea of the petitioner that criteria has been prescribed by the screening committee including the Dean of the University only to oust the petitioner from the Interview process, is not sustainable, as such a plea is a plea of malafide and cannot be considered by a Court as neither the members of the screening committee nor the Dean of the University have been made parties. That apart his submission that he being a physically challenged person, the benefit of relaxation of 5% needs to be given to him and there should be a representation by a differently-abled member in the screening committee is concerned, suffice to state the vacancy was an unreserved vacancy and not under PWD quota, so relaxed standards would not apply. That apart such relaxation is when such a candidate is being assessed by the Selection Committee. That apart the representation by a differently-abled member in the screening committee would arise at the stage of selection and when the post in question has to be filled under the PWD category. That apart, I note, the following stand of the respondents in Para 40 of their counter-affidavit which I reproduce as under:

“In reply to Para 40 it is submitted that the answering respondent University includes an academician representing the SC/ST/OBC/Minority/Women/Differently Abled as a Member in the Selection Committee, under the category for which post has been advertise.”

11. In view of above discussion, I do not see any merit in the petition.
The petition is dismissed.

V. KAMESWAR RAO, J

JULY 13, 2017/jg