

HON' BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No.2471 of 2001

ORDER:

This writ petition is filed by the petitioner under Article 226 of the Constitution of India, for the following relief:

“...to issue a writ, order or direction more in the nature of Mandamus declaring that the petitioner is entitled for conferment of promotion to the post of Professor on completion of 8 years of service under the Career Advancement Scheme on par with other similarly situated persons in the cadre of Readers who are conferred promotion on that basis with all consequential benefits by holding the action of the respondents in denying the benefit of conferment of promotion of the petitioner as Professor under the Career Advancement Scheme without properly constituting the Selection Committee as required under the rules as illegal, arbitrary, discriminatory, unjust, and subversive of Articles 14, 16 and 21 of the Constitution and also opposed to all principles of natural justice, equity and fair play and pass such other and further orders as this Hon'ble court may deem fit and proper.”

2. The case of the petitioner is that he belongs to Scheduled Caste community and passed M.Sc. Initially he worked as Junior Lecturer in the year 1971, under the control of State Government. He had later acquired Ph.D. in December, 1985 and was appointed as Reader/ Associate Professor in Botany in Osmania University with effect from 05.06.1989 and since then, he had been working in that capacity in the 1st respondent-University. He had published as many as 19 research papers on various items and also participated in seminars and conferences. He is also a

member of the Academy of Plant Sciences, India, Muzaffarnagar, Indian Journal of Applied and Pure Biology, Bhopal, International Society of Plant Morphologists, Department of Botany, University of Delhi and Phytological Society, Bharatpur. The 1st respondent-University evolved a scheme known as Career Advancement Scheme for Associate Professors/ Professors for the purpose of promotions. The said scheme postulates promotion to various posts like Lecturer/ Reader/ Professor etc. Insofar as promotions to the post of Professor are concerned, it was laid down that in addition to the sanctioned posts of Professors, which must be filled through direct recruitment through All India Advertisements, promotions may be made from the post of Reader to the post of Professor after 8 years of service as Reader. In the case of posts of Reader and Professor in Colleges, besides the Chair Person, governing body, the Principal of the College and the Head of Department, there will be two representatives of University, amongst whom one will be the Dean of College or equivalent position in the University, who will substitute the visitor's nominee and the Vice Chancellor should substitute the Vice Chancellor's nominee.

The petitioner had completed 8 years of service as Reader by 21-06-1997 and had teaching experience in P.G. Level for over 10 years and he attended the conferences, published various articles, conducted seminars, worked as Warden and attended invigilation duties. Hence, he is entitled for promotion to the post of Professor under the said scheme. The constitution of the Selection Committee is not in accordance with the norms of the U.G.C. According to the regulations, the Selection Committee should have a representative of the SC/ ST/ Women/ Physically Handicapped person, whenever a candidate from any of these categories appears for the interview. The Vice-Chancellor has evaluated his own system of evaluation process which is clearly in contravention of the spirit of Career Advancement Scheme. The Vice-Principal, who is not competent to write confidential records and who had a personal grouse against the petitioner, had written his confidential record adversely jeopardizing his due promotion under the Career Advancement Scheme. In the absence of the regular Principal, the role of Vice Principal is only to discharge the routine matters and therefore the action of the Vice Principal in making comments on his corporate life in the confidential record has adversely affected his case for

personal promotion as Professor under the Career Advancement Scheme. The selection list drawn by the Selection Committee for promotion to the post of Professors is not in tune with the prescribed norms made by U.G.C. and against the spirit and object of Career Advancement scheme and he is unjustly deprived of his promotion to the post of Professor. Aggrieved by the same, this Writ Petition is filed.

3. The 1st respondent-University has not filed any counter.

4. Respondents 3 to 6, who are impleaded vide WPMP No.2471 of 2001, filed counter and brief averments are that the University Grants Commission (for short 'U.G.C.') introduced a Career Advancement Scheme with an object of giving promotions to the persons, who have been working in a particular post for a longer period. For promotion to the post of Professor, the qualifications prescribed by U.G.C. are that the candidate should have completed 8 years of service in the category of Reader and must possess Ph.D. in the subject concerned and should have published a minimum of 3 papers in the subject concerned. As the answering respondents satisfied the pre-conditions stipulated by U.G.C., they applied to the post of Professor under the said scheme and were thereby selected. The 1st respondent-

University constituted a Selection Committee and pursuant to the recommendations of the Selection Committee, they were promoted from the post of Assistant Professor to the post of Associate Professor. But, the promotion from the post of Associate Professor to the post of Professor was stalled pursuant to the interim order passed by this Court on 14.02.2001 in W.P.M.P.No.3092 of 2001. The petitioner did not raise any objection at the time of interview as he belongs to Scheduled Caste. As per G.O.Ms.No.208, while making selections of SC/ ST/ Women/ Physically Handicapped persons, a representative belonging to S.C. should be there in the Selection Committee. The said G.O. is not binding on Osmania University, since it is an autonomous body. Hence, the writ petition is liable to be dismissed as there is no illegality or irregularity in their promotions.

5. Heard the learned counsel for the petitioner. None appeared for the respondents.

6. On 14.02.2001, this Court, while issuing *rule nisi*, granted the following interim direction in WPMP No.3092 of 2001:

“If the selection Committee for consideration of the Career Advancement Promotions for the posts of Professor of Botany in the respondent-University has not been composed

of a representative of Scheduled Caste, Scheduled Tribe, Woman or Physically Handicapped person when considering the candidates belonging to the said categories as required under paragraph 3 of the Appendix to G.O.Ms.No.208, Higher Education (U.E.II) Department dated, 29.6.1999, then and in such a case, the respondents shall forbear from making any career advancement promotions pending further orders on this application. This direction is issued in the light of the categorical assertion in the Writ Petition that despite the petitioner, a member of the Scheduled Caste Community, being an applicant and candidate for career advancement promotion to the post of Professor in the discipline of Botany, the Selection Committee has been composed without a member of the Scheduled Caste Community.”

On 31.03.2001, in WMP No.563 of 2001, it is further directed to keep the post of Reader in Botany as vacant by giving liberty to the University to declare the results of other posts.

7. Learned counsel for the petitioner would contend that the first respondent-University grossly erred in not constituting the Selection Committee with the representative of scheduled caste community, overlooking the fact that the petitioner, who belongs to Scheduled Caste, was appearing for interview. In view of G.O.Ms.No.208 dated 29.06.1999 a representative of SC/ ST/ Women/ Physically handicapped persons, should be in the Selection Committee whenever a

candidate from any of those categories appear for the interview. Thus, constitution of Selection Committee itself is illegal and as such, the appointments made by such Selection Committee are invalid.

8. The main ground urged by the impleaded respondents in the counter is that G.O. Ms.No.208 is not binding on the University since it is an autonomous body. However, in view of the averments of paragraph No.3 (ii) of the said G.O. wherein it has been stated that “*It shall be necessary for the Universities and Managements of Colleges to make necessary changes in their statutes, ordinances, rules, regulations, etc., to incorporate the provisions of this Scheme*”, the ground urged by the respondents cannot be countenanced.

9. As regard the validity of the Selection Committee, it would be relevant to extract the following portion of the appendix appended to G.O.Ms.No.208 dated 29.06.1999 for better adjudication of the matter:

“ ...

3. SELECTION COMMITTEES:

.....

A representative of the SC/ ST/ Women/ Physically handicapped persons, should be in the Selection Committee whenever a candidate from any of these categories appears for the interview.

.....”

10. In the case on hand, as rightly contended by the learned counsel for the petitioner, no such representative from Scheduled Caste community was appointed in the Selection Committee when the petitioner, who belongs to Scheduled Caste community, was appearing for interview. Hence, in considered view of this Court, the constitution of Selection Committee is not constituted in accordance with G.O.Ms.No.208 dated 29.06.1999. Hence, the selection of respondents 3 to 6 for promotion by denying promotion to the petitioner to the post of Professor under Career Advancement Scheme is patently illegal, violative and contrary to G.O.Ms.No.208 dated 29.06.1999.

11. Having regard to the facts and circumstances of the case, the Selection Committee is not constituted properly as per G.O.Ms.No.208, Higher Education(UE.II.I) Department, dated 29.06.1999, as there is no representative of Scheduled Caste, when the petitioner is a Scheduled Caste in the said committee even though the petitioner belongs to Scheduled Caste community. Hence, selection of respondents 3 to 6 by denying promotion to the petitioner to the post of Professor under 'Career Advancement Scheme' by the Selection Committee is illegal.

12. Accordingly, this Writ Petition is allowed directing respondents 1 and 2 to consider the case of the petitioner for promotion to the post of Professor in University-College as per the scheme of Career Advancement Scheme by constituting new Selection Committee as per G.O.Ms.No.208, dated 29.06.1999.

13. Consequently, miscellaneous petitions, if any shall stand closed. No order as to costs.

Date: 18.06.2018

pab/ sur

JUSTICE M. GANGA RAO

