

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Amended CWP No.5792 of 2013
Reserved on :11.12.2017
Date of decision: 12.01.2018

Ripudaman Singh

....Petitioner

Versus

Panjab University & others

...Respondents

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

Present: Mr.R.K.Malik, Sr.Advocate
with Mr.Bhupinder Malik, Advocate, for the petitioner.

Ms.Balpreet Kaur Sidhu, Advocate, for respondents No.1 to 3.

Mr.Amandeep Singh, Advocate, for respondent No.4.

G.S. SANDHAWALIA, J.

Petitioner challenges the appointment of respondent No.4- Vishva Bandhu Singh, to the post of Assistant Professor (Geography) on the ground that 2 extra marks had been given under wrong assessment and the marks awarded are hit by wrong parameters. The petitioner having got more marks and was more qualified and therefore, entitled for the said appointment.

It is the pleaded case of the petitioner that he had applied against the 2 posts of Assistant Professor in the Department of Geography in response to the advertisement dated 1/2012 (Annexure P-1) and the last date for applying was 31.01.2012. It is his case that 2 candidates were selected, namely, Dr. Simrit Kahlon and Vishva Bandhu Singh-private-respondent No.4. Both secured final score of 81.76 and 65.68 marks, respectively, as per Annexure P-2. Petitioner's grouse is that respondent No.4 has been given weightage for his experience as Map Curator, which is a non-teaching position. It is, thus, his case that if 2 marks would have not

been given to the private respondent, for the teaching experience, his merit would fall to 63.68 and therefore, the petitioner's merit of 64.18 marks, would bring him within the zone of consideration and he had wrongly been placed on the wait-list.

Reliance has been placed upon information supplied by the Department of Geography on 01.07.2015 (Annexure P-7) to contend that it was a non-teaching post and that it was in the pay-scale of Rs.8000-13,500 and the essential qualifications were M.A. in Geography with 55% marks and a Post-Graduate Diploma in Remote Sensing and Geographic Information System from an institute/ University, recognized by the Government. Reliance has, accordingly, been placed upon the budget estimate (Annexure P-9) to show that the said post fell within the non-academic staff. Reference was made to the reply of respondent-University to show that the said private-respondent had worked as Map Curator from 04.12.2006 to 18.03.2013 and had taught classes of Post-Graduate Diploma Remote Sensing and GIS System, Masters in Disaster Management and Masters in Remote Sensing and GIS from January, 2007 to January, 2009. Reference was also made to the reply (Annexure R-5) wherein the Selection Committee had examined whether there was any irregularity regarding his appointment and it had been resolved that there was no such irregularity and the Vice-Chancellor may proceed further, in view of the authorization given by the Senate. It was noticed that the Committee had taken into account the fact that the name of the said respondent figured in the time-table and he has been doing teaching

work as assigned to him by the Department. Reference is also made to the reply of the said respondent, wherein plea was taken that one Mehar Singh, Map Curator, was working on the said post in 1976 and he has even been designated as a Teacher in the light of the fact that he has taught various courses in the subjects of Remote Sensing and GIS classes. It is, thus, the contention of the Senior Counsel that as per the details of the teaching work done by the said respondent, as annexed vide Annexures R-4/3 and R-4/4, there was recommendation that the post be designated as Lecturer. Once there was recommendation dated 16.09.2009 (Annexure R-8) for designating to the said post as Lecturer, it would all go on to show that it was a non-teaching post and therefore, the 2 marks should not have been awarded under the work experience.

Similarly, reference was made to letter dated 23.10.2009 (Annexure R-10) of the Panjab University, wherein the decision of the Committee was that the designation of the Lecturer/Assistant Professor was to be only prospective and not retrospective, to submit that the 2 marks had wrongly been awarded for the teaching experience. Accordingly, it is submitted that the information supplied under the RTI Act also on 18.09.2015 (Annexure P-10) would show the teaching work for the sessions 2006-07, 2007-08 and 2008-09. Similarly, reference is made to Annexure P-14, whereby information had been sought whether the said respondent was assisting the Senior Professors in the practicals or allotted any independent theory/practical classes during the sessions 2006 to 2009. Accordingly, reliance was placed upon the information

supplied on 16.07.2016 that he had not been allowed any independent theory/practical classes, to argue in support of the said proposition.

Counsel for the University and the private-respondent, on the other hand, took the plea that he had been rightly given the 2 marks by the duly constituted Committee for the year 2009 and the University had issued letter dated 16.09.2009, to various departments, in the case of Tutor-cum-Curators, who were doing teaching work for re-designation of their posts as Lecturers. Another person, namely, Mohan Singh, Scientific Officer (Cartography) had also been recommended for the said benefit as the said persons were directly associated with the teaching work. On the basis of the teaching experience, the name of respondent No.4 was duly considered and he was found duly eligible on account of his teaching experience of 2 years and 8 months. On account of the faculty crunch being faced by the Department which was running 3 Master courses, qualified Map Curator and even Research Scholars were pressed into the service. As per the University budget, the post of Map Curator was an academic course and could not be termed as a non-teaching post. The issue had been put up before the Selection Committee, constituted by the Vice-Chancellor for various teaching posts, on account of the objections raised and whether the scores had been awarded wrongly or not. The Committee had decided in favour of the said respondent and resolved as per Annexure R-5. Reliance was also placed upon the communication dated 06.08.2012 (Annexure R-2), wherein the time-table and the workload in respect of the MA

Geography, Masters in Remote Sensing and GIS and Masters in Disaster Management, had been depicted to give workload at the Master's level in various courses, for the academic session 2012-13. Same reads as under:

“Minutes of the meeting of the Faculty/Board of Control in Geography, Administrative & Academic Committees held on 6th August, 2012 at 11.00 a.m. in the office of Chairperson, Department of Geography, Panjab University, Chandigarh.

The following members were present:

1. Prof. (Mrs.) Smita Bhutani
2. Prof.(Mrs.) Dhian Kaur
3. Prof. Krishna Mohan
4. Prof. Karanjot Kaur Brar ...(Chairperson)
5. Dr.(Mrs.)Ravinder Kaur
6. Dr.Gaurav
7. Dr.(Mrs.) Navneet Kaur

Agenda:

1. Teaching work-load and time table for the session 2012-13 in respect of Dr. Vishwa Bandhu Singh Chandel

After thorough deliberations on the issue, it was unanimously resolved that due to faculty crunch, over-loading of current faculty and specialized nature of courses being taught, Dr. Vishwa Bandhu Singh Chandel Map Curator (Academic Staff), Gr. (Rs.15600-39100+GP 5400) be given a work-load at the Masters level in the various courses of semester I & III for the academic session 2012-13.

It was further resolved that requisite permission for this decision of the Faculty/Board of Control in Geography Administrative & Academic Committees be sought from the authorities.”

Resultantly, it was argued that vide order dated 24.05.2016, passed by the Co-ordinate Bench, it had been directed that evidence of teaching by respondent No.4 from the year 2006 onwards was to be

placed on record. It is, thus, pointed out that vide affidavit of the Registrar, Panjab University dated 21.07.2016, the necessary details have been placed on record, which shows that respondent No.4 had taken various classes, as per the time-table and therefore, the weighage of marks was justified.

A perusal of the weightage given by the Selection Committee would go on to show that as per the criteria fixed, the academic marks also were duly taken into consideration and for the teaching experience, 10 marks had been fixed. It is nowhere specified, as such, that the said respondent who was not working as Lecturer and therefore, his experience could not be taken into consideration.

Counsel for the private-respondent was well justified in placing reliance upon the judgment in **Deepak Sharma Vs. State of Haryana 1996(1) SCT 594**, wherein the work experience of a Clerk had been taken into consideration for the post of Social Studies Masters. Therein, experience while working as Laboratory Assistant by Clerks, had been taken into account, in view of the certificates duly issued by the Sub-Divisional Education Officer. In similar circumstances, in **Dinesh Bagga Vs. State of Punjab & others 2011 (4) RSJ 587**, the eligibility of a lady Member of the Punjab State Consumer Disputes Redressal Commission was under challenge. Accordingly, it was held that there was no condition that the person should have experience in a particular service or appointment. It was the appointing authority who was to judge the suitability of the candidate and it was only for the candidate whether

he fulfilled the eligibility criteria. Once the Selection Committee had accepted the experience and found the person suitable, interference was not called for.

The facts of the said case are directly applicable to the facts in the present case. Respondents have noticed that the private-respondent has been working as a Map Curator and had the necessary teaching experience and therefore, merely because the post is academic and not been designated as Lecturer, would not, as such, take away the benefit of 2 marks which has been awarded to the private-respondent. The respondent-University has stood by the selection process and the fact that the said respondent has been teaching, as per the affidavit filed by the Registrar. In such circumstances, reliance can also be placed upon the judgment of the Division Bench in *State of Punjab & others Vs. Kushwinder Singh 2011 (5) SLR 55*, wherein it was held that if the certificate produced is found genuine and authentic and owned by the authorities issuing it, it can be taken into account for the purposes of work and experience. As noticeable, the University having given weightage and has got the whole matter examined through a Committee. Merely because the private-respondent was working as Map Curator, he could not be denied the teaching work experience, which is the criteria fixed by the Selection Committee.

The petitioner having gone through the selection process, cannot challenge the same and submit that the interview is unfair, after being unsuccessful and not finding himself within the zone of

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consideration. Reliance can be placed upon the judgments of the Apex Court in *Madan Lal & others Vs. State of Jammu & Kashmir 1995 (3) SCC 486* and *Chandra Prakash Tiwari and others Vs. Shakuntala Shukla 2002 (6) SCC 127* and the recent judgment of the Apex Court in *D. Sarojakumari Vs. R. Helen Thilakom and others 2017 (11) Scale 366*.

In such circumstances, no occasion for interference is made out in the appointment of respondent No.4. Accordingly, the present writ petition is dismissed.

12.01.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: Yes