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

*Date of decision: 30<sup>th</sup> November, 2018*

+ W.P.(C) 10002/2016

SURESH CHANDRA ..... Petitioner  
Through : Mr. Anurag Rawat, Advocate.

versus

UNION OF INDIA AND ORS ..... Respondents  
Through : Ms.Monika Arora, Standing Counsel  
for JNU with Mr.Harsh Ahuja,  
Mr.Kushal Kumar, Advocates for R2,  
3/JNU.  
Mr. Manjeet Singh, Senior Advocate  
with Mr.Tarjit Singh, Advocate for  
R4.  
Mr. Piyush Sharma, Advocate for R5.

**CORAM:**  
**HON'BLE MR. JUSTICE SURESH KUMAR KAIT**

**J U D G M E N T (O R A L)**

1. Vide the present writ petition, the petitioner seeks direction thereby directing the respondents to cancel the appointment of respondent No. 4/Dr. Ajmer Singh Kajal on the post of Professor (Post No. 35) (Backlog reserved category) in the centre of Indian Languages, School of Language, Literature and Culture Studies, JNU, New Delhi.
2. Further seeks direction to direct the concerned respondents to appoint the petitioner on the post of Professor in the centre of mentioned above.
3. The brief facts of the case are that the petitioner is a Professor of

Hindi in Department of Hindi, Assam University, Silchar-788011 and belongs to Schedule Caste category who had applied for appointment on the post of Professor. The petitioner is aggrieved by the appointment of the respondent No. 4 on the said post, since the Respondent No. 4 does not fulfil the criteria of the qualification as required for appointment on aforesaid post of Professor on the last date of the submission of the application forms i.e. 10.02.2014. He had not possessed the essential and desirable qualification.

4. Respondent No. 5 Professor Ram Bux Jat had presided the meeting of Screening Committee held on 01.05.2014 to short list of the candidates for interview. According to the list prepared in the above meeting it was clearly mentioned that respondent No. 4 does not possess the essential qualification of teaching experience of ten years at Post Graduate level. In addition, the respondent No. 6/Professor S.M. Anwar Alam had presided the meeting of Screening Committee held on 25.06.2015 and found respondent No. 4 not eligible. However, on 17.08.2015, Respondent No. 7/Professor Govind Prasad and respondent No. 8/Professor K.M. Ekramuddin being members of the Screening Committee had short listed respondent No. 4/Dr. Ajmer Singh Kajal despite the fact that he was not eligible for the interview.

5. The case of the petitioner herein is that the last date of submission of application was 10.02.2014, pursuant to advertisement dated 11.01.2014. The respondent No. 4 did not have the requisite teaching experience, therefore, his candidature should have been rejected. Learned counsel for the petitioner submits that Dr. Ajmer Singh Kajal in his application form had left the column No. 17 as blank pertaining to experience of teaching Post Graduation Classes which was essential qualification. Column No. 21 is

pertaining to experience of supervising successful Doctoral research which was desirable qualification. Despite this fact, the Screening Committee cleared and short listed Dr. Ajmer Singh Kajal for interview. Thus, while short listing the candidates for the interview, fraud, illegality and forgery have been committed by the Screening Committee in connivance with Dr. Ajmer Singh Kajal.

6. It is submitted, since, as per the Advertisement, Respondent No. 4 was not eligible to be called for interview, therefore, subsequent amendment made by the University is not applicable in the Advertisement in question.

7. Learned counsel appearing for the respondents submits that the Executive Council of University in its Meeting held on 09.05.2014 considered a proposal of Director, Internal Quality Assurance Cell (IQAC) of the University to incorporate the minimum qualification as per the UGC Guidelines for direct Recruitment for the post of Professor. Accordingly, resolved to amend 5.A(ii) Qualifications for Direct Recruitment for the post of Professor of the Ordinance relating to the Revision of Pay Scales (2010) Minimum qualifications and Career Advancement of Teachers, which may be read as under :

| Existing Qualification for Direct Recruitment to the post of Professor                       | Amended as per the UGC Regulations, 2010.                                        |
|----------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| 5. (A) (II) A minimum of 10 years experience in post-graduate teaching, and/or research at a | A minimum of 10 years experience in teaching at University/College level and/ or |

|                                                                                                    |                                                                                                               |
|----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| University/National level institution, including experience of guiding research at doctoral level. | research at University/National level Institution including experience of guiding research at doctoral level. |
|----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|

8. He further submits that the Executive Council of the University approved the above amendment, correcting the error in the existing teaching experience of post graduate, by reverting back to actual eligibility conditions prescribed by UGC. The same was applied to the pending applications received by the University for the post of Professor vide Advertisement No. RC/44/2012; RC/45/2013; RC/47/2014 and RC/48/2014, so that the candidates who had applied for the post of Professor may not be deprived of. Further submits, due to an oversight and rush of recruitment work, corrigendum could not be issued. The Chairperson, Centre for India Languages, School of Languages, Literature and Culture Studies was also informed of the decision of the Executive Council Meeting held on 09.05.2014. Thereafter, the applications were again sent back to the Centre for reviewing the same in the light of above decision of the Executive Council. The Screening Committee of the centre vide its meeting dated 17.08.2015 shortlisted 6 candidates including petitioner for the above post of Professor.

9. Learned counsel further submits that the University followed 3 level screening of applications i.e. (i) Screening by the concerned School/Centre; (ii) Recruitment Cell of the University; & (ii) final verification of the shortlisted/rejected candidates by the International Quality Assurance Cell

(IQAC) of the University including verification of API scores of the candidates. The IQAC has been established as per UGC guidelines under the Chairpersonship of Vice-Chancellor. Director, IQAC oversees the entire exercise of verification at the final stage.

10. As per the claim of the respondent, Dr. Ajmer Singh Kajal, in his application form mentioned that he was working as Professor in the University since 2010 and had six research students for Doctoral research working under him since 18.11.2011. Thus, the benefit of essential qualifications as per the UGC Regulations was availed by all the candidates shortlisted by the centre, including Professor Ajmer Singh and Dr. Suresh Chandra. This was applied uniformly in all cases in an impartial and transparent manner. Selection of a candidate is determined by his performance in all the parameters set by the Selection Committee.

11. Learned counsel for the petitioner submits that as per advertisement No. Advt. No. RC/47/2014, the essential qualifications for Professor in the scale of Pay of Rs.37400-67000 (PB-4) AGP Rs. 10000 is a minimum of ten years of experience in Post Graduate Teaching and/ or research at a University/National level institution, including experience of guiding research at Doctoral level, therefore, the respondent No. 4 along with other candidates were not eligible to participate for the post of Professor in question.

12. It is not the case of the petitioner that due to the amendment, his candidature was rejected or he could not apply for the post in question. In the advertisement dated 11.01.2014, it is specifically stated that the

qualifications and other conditions applicable are subject to UGC Regulations, 2010 as amended from time to time. The UGC Regulations on minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges and measures for the maintenance of standards in Higher Education 2010 stipulates at point 4.0.0. The essential conditions for Direct Recruitment of Professor which are as under:

***“4.0.0 DIRECT RECRUITMENT***

***4.1.0 PROFESSOR***

***A (ii) A minimum of ten years of teaching experience in university/college, and/or experience in research at the University/National level institutions/industries, including experience of guiding candidates for research at doctoral level....”***

13. It is not in dispute that Clause (4) of the advertisement says that qualifications and other conditions applicable are subject to UGC Regulations 2010 as amended from time to time. The Screening Committee of the centre vide its Meeting dated 25.06.2015 shortlisted three candidates for the post of Professor. While going through the shortlisted/rejected applications in the Recruitment Cell of the University on 24.07.2015, it was observed that the candidate namely Dr.Ajmer Singh Kajal and Dr.Ram Chandra were rejected due to not having the requisite teaching experience at the Post Graduation Level.

14. The fact remains that the University for which, post of Professor was to be filled, did not adopt the UGC Regulations of 2010 due to which inadvertently, in the advertisement dated 11.01.2014 it is mentioned that minimum 10 years of teaching experience in Post Graduate is required,

whereas, as per the UGC Regulations, a minimum 10 years of experience in Teaching is required at University/College level. It is not in dispute, the respondent No. 4 has essential qualification as per UGC Regulations of 2010.

15. The petitioner, even with the amended qualification appeared in the interview, however, as the respondent No. 4 had scored more API marks than the marks of the petitioner, respondent No. 4 was selected for the said post.

16. If advertisement is contrary to Regulations of UGC in that situation, the Supreme Court in case of ***Ashish Kumar v. State of Uttar Pradesh and others: (2018) 3 SCC 55*** held that any part of the advertisement which is contrary to the statutory rules has to give way to the statutory provisions and when there is variance in the advertisement and in the statutory rules, it is the statutory rules which take precedence. In the above mentioned judgment passed by the Supreme Court, para 21 of the judgment passed in ***Malik Mazhar Sultan v. UP Public Service Commission: (2011) 13 SCC 122*** which reads as under:

*“21 The present controversy has arisen as the advertisement issued by PSC stated that the candidates who were within the age on 1-7-2001 and 1-7-2002 shall be treated within age for the examination. Undoubtedly, the excluded candidates were of eligible age as per the advertisement but the recruitment to the service can only be made in accordance with the Rules and the error, if any, in the advertisement cannot override the Rules and create a right in favour of a candidate if otherwise not eligible according to the Rules. The relaxation of age can be granted only if*

*permissible under the Rules and not on the basis of the advertisement. If the interpretation of the Rules by PSC when it issued the advertisement was erroneous, no right can accrue on basis thereof. Therefore, the answer to the question would turn upon the interpretation of the Rules.”*

17. It is not in dispute that as per UGC Regulation, 2010, a minimum of 10 years of teaching experience in University/College is required for the direct recruitment at the post of Professor, which the respondent No. 4 possessed, therefore, I find no merit in the present writ petition.

18. The petition is, accordingly, dismissed with no order as to costs.

**NOVEMBER 30, 2018**

j

**SURESH KUMAR KAIT, J**

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