

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

CWP-11947-2017

Date of decision: November 26, 2019

Deepa

.....Petitioner

vs.

State of Haryana and others

.....Respondents

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. K.S. Boparai, Advocate for the petitioner.
Mr. Rajesh Gaur, Additional Advocate General, Haryana.
Mr. Anurag Goyal, Advocate for respondent No. 2.

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Sanjay Kumar, J. (ORAL):

Pursuant to Advertisement No. PR-70 of 2016 issued by Maharishi Dayanand University, Rohtak, the second respondent herein, the petitioner aspired for the post of Assistant Professor (Forensic Science) in its Department of Genetics. This post was reserved under the category Backward Class (Block-A). After completion of the selection process, the University decided that no one was suitable for the post, *vide* proceedings dated 10.3.2017 (Annexure P-18). Assailing this decision and seeking consequential relief, the petitioner filed the present case.

The petitioner acquired a Master's degree in Forensic Science from the second respondent University. She stood first in the University and

was awarded a gold medal. The Certificates of Merit dated 8.3.2017 (Annexure P-4) and 23.4.2017 (Annexure P-5) issued by the second respondent University bear out the fact that the petitioner was awarded a gold medal in token of having secured the first position in the Master of Science (Forensic Science) examination held by the University in May, 2012. She admittedly belongs to a Backward Class community, falling under the category 'Block A'.

The subject advertisement was issued by the second respondent University, inviting applications from eligible candidates for appointment to various teaching posts. The petitioner was one amongst the candidates who applied for the subject reserved post of Assistant Professor (Forensic Science). Her name was shown in the list of eligible candidates dated 4.2.2017 (Annexure P-14), prepared by the Screening Committee constituted by the University. She was then called for an interview by the Selection Committee, along with other eligible candidates, on 10.3.2017. After completion of the interviews, the Selection Committee declared that no one was found suitable. Hence, this writ petition.

The petitioner assails the decision dated 10.3.2017 mainly on two grounds. *Firstly*, she would contend that the Selection Committee which interviewed the candidates was not constituted as per the relevant norms. *Secondly*, she would assert that the selection was undertaken in an arbitrary manner and she was not awarded requisite marks as per her entitlement. She would point out that no marks whatsoever were awarded to her for her presentation and interview and the Selection Committee blindly adopted the very same marks quantified by the Screening Committee, as set out in the eligibility list (Annexure P-14), which was for the limited purpose of

screening candidates for the interviews.

The second respondent University filed its written statement through its Registrar. Therein, as regards constitution of the Selection Committee, he pointed out that the norms required participation of an academician representing the category to which the applicant belonged and as Professor J.P.Yadav, Head of the Department of Genetics, one of the members of the Selection Committee, belonged to OBC category, the requirement stood satisfied. He stated that the three subject experts in the Selection Committee had long experience and specialization in the subjects falling under the broader head of 'Life Sciences'. According to him, where research is an integral component of one's role and responsibilities, narrow specializations did not matter. He further stated that the field of Forensic Science draws from a number of scientific branches, including Genetics, Microbiology, Biotechnology Plants Science, Biochemistry, Human Genetics, Serology, Chemistry and Physics, and the subject experts on the Selection Committee were internationally well known in their respective fields. He elaborated on this aspect by pointing out that Professor Jai Rup Singh, Ex-Vice Chancellor, was known for his contribution in the field of Human Genetics and the use of DNA fingerprinting, while Professor R.C. Kuhad, Vice Chancellor, was known in the field of Microbes and Professor A.K. Pradhan had expertise in the field of Plant Genetics. He admitted that three candidates were found eligible for the subject post and were called for interview by the Selection Committee on 10.3.2017. He also admitted that the said Selection Committee found that no one was suitable. He asserted that the said recommendation was approved by the Executive Council of the University, *vide* Resolution Number 50 dated 11.3.2017.

The Registrar pointed out that as per Advertisement No.PR-70 of 2016, the selection process required assessment of the candidates as under -75 marks were to be awarded on the strength of the selection criteria, 7 marks were to be awarded for the presentation on the subject and 18 marks were for the interview. He stated that in terms of the selection criteria mentioned in the advertisement, the petitioner secured 20.235 marks out of 75 marks, as against 26.435 marks claimed by her. He admitted that she was not awarded any marks for securing a gold medal but justified it by claiming that, while applying for the post, the petitioner did not enclose her gold medal certificate. As regards the fact that the petitioner was not given any marks for her presentation and interview, he admitted that no marks were allotted but asserted that, had the Selection Committee found any candidate suitable, then marks for presentation and interview would have been awarded.

By order dated 15.11.2019 passed in this writ petition, this Court called for the records and more particularly, the records of the Selection Committee. The records were accordingly produced and perused.

Mr. Kulwant Singh Boparai, learned counsel, would reiterate the grounds raised in the writ petition. He would point out that the petitioner secured a gold medal from the very same University and therefore, it was not open to the Selection Committee to deny her requisite marks on that count on the ground that she had not produced the certificate. He would further contend that the constitution of the Selection Committee was contrary to the norms and therefore, the entire selection process has to be scrapped.

Per contra, Mr. Anurag Goyal, learned counsel, would contend that this Court ought not to interfere with the decision of the second respondent University as administration of academic bodies should be left to

their wisdom. He would assert that the Selection Committee was constituted as per norms and seek to justify its decision, as embodied in Annexure P-18. He would further contend that this Court cannot sit in appeal over the findings of a duly constituted Selection Committee.

Perusal of Advertisement No.PR-70 of 2016 (Annexure P-13) reflects the following salient points: One post of Assistant Professor (Forensic Science) in the Department of Genetics in the second respondent University was notified in the reservation category BC (A). As per the selection criteria for the posts of Assistant Professor notified thereunder, a separate table was prescribed for a total of 100 marks. 'Academic Record and Experience' accounted for 43 marks while 'Research Performance' earned 32 marks. Significantly, under the head 'Academic Record and Experience', a maximum of 4 marks were to be awarded for a gold medal, obtained either at UG level or at PG level (only for the qualifying subject). Interview and presentation, together, aggregated to 25 marks. Out of these 25 marks, presentation on the subject was for 7 marks and the interview was for 18 marks. *Note 1* appended to the table, titled 'Short listing of candidates', stated that candidates would be called for interview in order of their ranks in the list prepared by the Screening Committee, on the basis of marks secured by them out of the total of 75 marks, mentioned *supra*. The Screening Committee, comprising the Dean, Faculty of Life Sciences; the Head, Department of Genetics; and the most senior Professor in the Genetics Department, along with the Registrar of the University, as a Member Secretary/Ex-Officio Member, undertook the exercise in terms of the aforesaid *Note 1* and empanelled three candidates found eligible for the subject post and recommended their names for interview in order of merit,

vide their Report (Annexure P-14). Therein, the petitioner stood first with 20.235 marks, as opposed to 15.5 and 11.5 marks secured by the others.

At this stage, it would be relevant to take note of Statute 22(A) of the Statutes of the second respondent University: -

'22(A) (1) The Selection Committee for recommending appointment and promotion of the teachers of the University namely assistant professor, associate professor and professor under the relevant promotion scheme as approved by the University shall consist of the following:

- i) Vice Chancellor or Acting Vice Chancellor to be the Chairperson of the Selection Committee.
- ii) An academician who is the nominee of the Chancellor.
- iii) Three experts in the concerned subject/field nominated by the Vice-Chancellor out of the panel of names approved by the Executive Council of the University.
- iv) Dean of the concerned faculty.
- v) Head/Director of the Department/Institute/Centre.
- vi) An academician representing SC/ST/OBC/Minority/Women/Differently abled categories, if any, of candidates representing these categories is the applicant, to be nominated by the Vice-Chancellor, if any of the above members of the selection committee do not belong to that category.'

It is in the context of the aforesaid norm that the petitioner would allege that the Selection Committee was not constituted properly in the case of hand. The Selection Committee constituted for the subject post consisted of Professor Bijender K.Punia, the Vice-Chancellor, as the Chairman, along with Dr. K.C.Arora, retired Principal, as his nominee. Professor Jai Rup Singh, Former Vice- Chancellor, Professor R.C.Kuhad, Vice-Chancellor, Central University of Haryana, and Professor A.K.Pradhan, Department of Genetics, University of Delhi, were the subject experts. Professor P.K.Jaiwal and Professor J.P.Yadav of the second respondent University were also members, while Professor Madhu Nagla, Head of the Department of Sociology of the second respondent University, was the

woman representative. The Registrar of the second respondent University was the Secretary of the Selection Committee.

In terms of Statute 22 (A) (1) (iii), three experts in the concerned subject/field had to be nominated by the Vice Chancellor. Though, presently, the three subject experts are stated to be experts in the field of Genetics, they did not possess a separate qualification in Forensic Science. Even if they were qualified in the *genus*, Genetics, the question that would arise is as to whether they could be considered to be experts in the *specie* thereof, viz., Forensic Science. However, as the Registrar of the second respondent University cited the contributions made by the three subject experts to the field of Forensic Science, this Court deems it inappropriate and unnecessary to enter into the controversy as to whether they qualify as subject experts in Forensic Science.

More so, as the case is amenable to a decision on stronger grounds. Statute 22 (A) (1) (vi) mandates that an academician representing the category to which the candidate belonged has to be nominated by the Vice-Chancellor, in the event the Selection Committee did not comprise such a member. Admittedly, the post in question was notified under Backward Class (Block A) reservation category. It is the specific case of the petitioner that Professor J.P.Yadav, who was a member of the Selection Committee, did not belong to Backward Class (Block A) and was a member of Backward Class (Block B). She specifically made allegations in this regard in *para 11 (B)* of her petition and impleaded him by name as respondent No. 3 in this writ petition. Despite service of notice, the Professor did not choose to enter appearance before this Court.

The Registrar of the University did not deny the petitioner's

avermment in this regard but justified the constitution of the Selection Committee by claiming that it would suffice if one of the members of the Selection Committee belonged to the broader reservation category, viz., OBC, without reference to the 'Block A' categorization. However, that is not the import of the aforestated norm. Statute 22 (A) (1) (vi) categorically required an academician, representing the particular category to which the applicant belonged, to be included amongst the members of the Selection Committee. Therefore, when the subject post was reserved for Backward Class (Block A) category, an academician belonging to that particular category necessarily had to be included in the Selection Committee. There was thus a clear violation of the mandate of the Statute.

That apart, perusal of the records produced by Mr. Anurag Goyal, learned counsel, demonstrates that the selection process stood vitiated by total non-application of mind by the Selection Committee. It appears that a self-assessment format was provided to the candidates and they were asked to fill in the same for the benefit of the Screening Committee. In terms of the said format, the petitioner claimed that she was to be awarded 26.435 marks out of 75. The Screening Committee however awarded her only 20.235 marks. Significantly, *Note 1* appended to the table, referred to *supra*, did not provide for any such self-assessment by the candidates even for the purposes of the Screening Committee. This methodology was therefore an aberration resorted to by the Screening Committee without authority. Further, the Screening Committee did not award any marks to the petitioner as against the 4 marks claimed by her for her gold medal in Forensic Science. The ostensible reason for this was the alleged failure of the petitioner to produce her gold medal certificate. However, it is an admitted fact that the petitioner

secured her gold medal from the second respondent University itself. She specifically referred to it in her application form, wherein, as against Column 19 - '*Give particulars of Prize, Medal and Merit won, distinctions, if any;*', - she stated that she secured a gold medal for first rank in the University in Forensic Science and added that she was yet to receive it. As the gold medal was secured by the petitioner from the second respondent University itself, it was well within the scope of the Screening Committee/Selection Committee to verify that fact. Without doing so, the petitioner was denied the 4 marks that she was entitled to for having secured a gold medal.

More shocking is the fact that the records do not even reflect any independent assessment by the Selection Committee. The Selection Committee seems to have baldly gone by the marks awarded by the Screening Committee, for shortlisting eligible candidates for the interview, and refused to award them any marks, be it for their presentation on the subject or for their interview, on the ground that none of them was suitable. Significantly, no cut-off mark was prescribed to assess the suitability of a candidate. In the absence of any such prescription with regard to the minimum marks to be secured by a candidate to aspire for the post, it was not open to the Selection Committee to refuse to even consider the performance of the candidates during their presentation and interview and fail to award any marks to them. Without even independently assessing the candidature of the petitioner and the other two candidates, be it in relation to their academic record and experience or their research performance, accounting for 75 marks, or in relation to their presentation and interview, accounting for 25 marks, the Selection Committee bluntly dismissed their candidature by stating: '*No one is found suitable*'.

It is well settled that, ordinarily, Courts would be cautious in interfering in matters relating to academic institutions. This benefit of doubt is bestowed upon academic bodies as they would be chaired by people of learning who are presumed to be immune to the vagaries and arbitrariness that bodies chaired by lesser mortals would be prone to. Unfortunately, this presumption is found to be utterly misplaced, more often than not. The case on hand is a classic example. When a duly constituted Selection Committee of a University, comprising senior members of its administration and teaching faculty, undertakes selection for appointment to teaching posts, it is expected to discharge the duty resting upon it with care and responsibility. Presently, the Selection Committee constituted by the second respondent University did not even strive to meet that standard. In fact, it did not even resort to paying lip service to a selection process worth the name, as it chose to wash its hands off without assessing the candidates who appeared before it.

Reliance placed by Mr. Anurag Goyal, learned counsel, on ***Major General I.P.S. Dewan vs. Union of India and others (1995) 3 SCC 383*** does not further his case. Therein, the Supreme Court was dealing with an administrative order pertaining to selection for the purpose of promotion and held to the effect that unless the Rules require, a Selection Committee/Selection Board was not expected to record reasons as to why it was not selecting a particular person. It may however be noted that there was a record of the selection proceedings in that case, unlike the case on hand. In ***Dr. Jai Narain Misra vs. State of Bihar and others (1971) 1 SCC 30***, the Supreme Court observed that it is for the selecting authority to decide as to who would be the most suitable candidate for being appointed and the High

Court cannot sit in appeal over such selection process. This decision also has no application to the case on hand as there was no selection at all, inasmuch as the Selection Committee completely abdicated its responsibility and did not even undertake any assessment of the candidates.

This Court therefore finds that the very constitution of the Selection Committee for the subject post was tainted as it was not in accordance with the norms. Further, the process of selection undertaken by the said Selection Committee was no selection process at all. Thereby, the petitioner, no less than a gold medallist, was unceremoniously shown the door by the second respondent University.

Thus, on both counts, the decision dated 10.3.2017 (Annexure P-18) is found to be unsustainable and the same is set aside. The second respondent University shall constitute a Selection Committee afresh, as per Statute 22 A (1), for undertaking a fresh assessment of the three candidates whose names were shortlisted for selection to the subject post. This exercise shall be completed expeditiously and in any event, not later than one month from the date of receipt of a copy of this order.

The writ petition is accordingly allowed.

There shall be no order as to costs.

November 26, 2019
Preeti

(Sanjay Kumar)
Judge

Whether speaking/non speaking : Yes

Whether reportable/non reportable : Yes