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

CWP-3464-2016

Date of Decision: May 24, 2019

Rakesh Mishra

... Petitioner

vs.

**Sant Longowl Institute of Engineering & Technology and anr
.. Respondents**

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

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

Mr. Karan Singh Sandhu, Advocate
for respondent No.1.

Mr. Vivek Chauhan, Advocate
for respondent No.2.

ARUN MONGA, J.(ORAL)

Impugned herein are the minutes of meeting dated 29.01.2016 (Annexure P-13) of the Board of Management of respondent No.1-Sant Longowl Institute of Engineering & Technology, whereby, the representation of the petitioner for issuance of appointment letter to the post of Finance Officer was rejected. The only ground for rejection is that there is no sanctioned post of Finance Officer in the Institute and the term of the panel, already being more than three years old, had already expired. Per Government of India Instructions, the panel is valid for one year at a time.

2. Short affidavit has been filed on behalf of respondent No.2 which is stated to be the sanctioning authority for the post of Finance

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Officer and the stand taken therein is that SLIET has no authority to advertise and appoint anybody for the post which is not sanctioned and the post on which the petitioner is seeking his appointment has not been sanctioned by respondent No.2 and, therefore, the action of respondent No.1 in advertising the said post was *ab-initio* defective.

3. Learned senior counsel for the petitioner submits that the sanction of the post of Finance Officer by respondent No.2-MHRD has no legal significance in view of notification dated 10.04.2007 issued by Ministry of Human Resource Development, whereby, respondent No.2 was notified as 'Deemed to be University' under Section 3 of the University Grants Commission Act, 1956. He further submits that thereafter respondent No.2 framed its own rules and regulations vide Memorandum of Association as amended in the Second Board of Management meeting held on 04.09.2009 (Annexure P-1).

4. Learned Sr. counsel for the petitioner has drawn my attention to Clause 5 of the Sant Longowal Institute of Engineering and Technology (Deemed to be University), Longowal, Rules which envisages that the Board of Management shall be the principal organ of management in the institute. It further states that the Board of Management shall be the principal executive body of the institute and shall have all the powers vested in it including the power as contained in Clause 5 (a) (vi). The said Clause is extracted here-in-below:

“To create administrative, ministerial and other necessary posts in terms of the cadres laid down or otherwise and to make appointment thereof in consultation with the Finance Committee”

5. Learned Sr. counsel for the petitioner has also drawn my

attention to Clause 13 (i) of the abovesaid Rules which itself contemplates a post of Finance Officer. It envisages the duties and role of the Finance Officer in the day-to-day working of the Institute. For ready reference, said Clause 13 (i) is reproduced here-in-below:

“ Finance Officer

- i) The Finance Officer shall be a whole time salaried officer of the Institute and shall be appointed by the Board of Management on deputation/from a panel of names submitted by the Central Govt./advertisement and recommendations by the Selection committee. Composition of selection committee would be the same as that of selection committee of Registrar. The emoluments and other terms and conditions of service of the Finance Officer shall be as may be prescribed by the Bye-laws.*
- ii) The Finance Officer shall work under the supervision of the Director and will be accountable to the Board of Management through the Director. He/She would be the Ex-officio non-Member Secretary of the Finance Committee. He/She would be an advisor to the Director for financial matters. Subject to the control of the Board of Management to manage property and investment of the institute, he/she shall be responsible for the preparation of annual estimates and statements of account for submission to the Finance Committee and the Board of Management.”*

6. Relying on the Rules, *ibid*, learned Sr. Counsel for the petitioner contends that owing to these very Rules an advertisement dated 23.02.2012 (Annexure P-2) was published. Pursuant thereto, the petitioner applied for the post of Finance Officer. After he was duly recommended

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by the Selection Committee, the Board of Management of respondent No.1 in its meeting dated 21.09.2012 (Annexure P-4), vide item No. 11.12, accepted the recommendation of the Selection committee and ratified the selection of the petitioner to the post of Finance Officer. The petitioner has been ever since representing to respondent No.1 to issue the appointment letter but the same not been done. Hence, the present writ petition.

7. I have heard learned senior counsel for the petitioner as also learned counsels for the respondents.

8. Having perused the notification dated 10.04.2007 (Annexure P-14) and Memorandum of Association read with Rules, *ibid* (Annexure P-1), I am of the view that the impugned decision dated 29.01.2016 (Annexure P-13) taken by the Board of Management in its 20th meeting does not stand the judicial scrutiny and is not tenable. A perusal of the Rules, *ibid*, leaves no manner of doubt that respondent No.1 is fully empowered to not only sanction the posts but also proceed with the advertisement and conduct selection pursuant to the sanctioning of the posts. The post of Finance Officer itself finds mentioned in the abovesaid Rules, and, therefore, the decision taken by respondent No.1 on the ground that the post has not been sanctioned by respondent No.2 cannot be sustained.

9. In the premise, the writ petition is allowed and respondent No.1 is directed to issue appointment letter to the petitioner in terms of the decision taken by the Board of Management in its meeting dated 21.09.2012 (Annexure P-4) wherein the Selection Committee's recommendations were accepted and ratified the appointment of petitioner

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as Finance Officer.

10. It is, however, made clear that the petitioner shall be entitled for appointment, on notional basis with effect from the decision taken by the Board of Management in its meeting dated 21.9.2012 (Annexure P-4) but shall not be entitled to any pecuniary benefits for the past.

11. Disposed of in above terms, no order as to costs.

May 24, 2019
smriti

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No