

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-6650-2011 (O&M)
Date of Decision: 17.1.2020

Dr. Mohd. Ayub Khan

--Petitioner

Versus

Punjabi University, Patiala & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Rahul Rampal, Advocate for the petitioner.

Mr. Abhishek Kaushik, Advocate for
Mr. V.K. Jindal, Advocate for respondents no.1 to 3 & 6.

Mr. Rajiv Atma Ram, Sr. Advocate with
Mr. Sube Sharma, Advocate for respondent no.5.

TEJINDER SINGH DHINDSA.J (Oral)

Petitioner had submitted an application for appointment to the post of Reader/Associate Professor (Urdu) which was advertised by the third respondent on 8.2.2009. Petitioner was ousted from the zone of consideration and not called for the interview on account of the following two reasons:-

- (i) That the original documents were not appended with the application and thus the form was incomplete.
- (ii) Does not possess the requisite five years of teaching experience.

Instant petition has been filed assailing the action of his exclusion from the process of selection by terming the same as arbitrary. Further prayer is for quashing the selection of respondent no.5.

The essential qualifications prescribed for the post were as under:-

“4. Reader in Urdu-1 (12,000-18300) for Nawab Sher Mohd. Khan Institute of Advance Studies in Urdu, Persian and Arabic, Malerkotla.

Qualifications: As prescribed by the UGC, Preference will be given to the candidate having M.A Persian and Arabic.”

The relevant U.G.C guidelines were as follows:-

“Qualifications and grade for the post of Reader/Associate Professor:

Grade Rs. 12000-420-18300/- (UGC) a) Arts & Social Sciences, Commerce, Education, Physical Education, Humanities & Religious Studies, Languages, Law Physical Sciences, life sciences and vocational courses.

Good academic record with a doctoral degree or equivalent published work. In addition to these candidates who join from outside the University system, shall also possess at least 55% of the marks of an equivalent grade of B in the 7 point scale with latter grades, O, A, B, C, D, E & F at the Master's degree level.

Five years of experience of teaching and/or research excluding the period spent for obtaining the research degree and has made some mark in the areas of Scholarship as evidence by quality of publications, contribution to educational innovation, design of new courses and curricula.”

Counsel for the petitioner has submitted that the petitioner was qualified to hold the post of Lecturer as he had a degree of M.Phil to his credit which was acquired in the year 1993 as at that point of time there was no requirement of qualifying the eligibility test which is now a pre-condition for taking up an assignment in teaching. It is argued that if a candidate takes up a teaching assignment being qualified for the same and also pursues his research along side, then, such candidate distinctively acquires teaching experience independently of the research that may have

been carried out towards award of a Doctorate Degree. It is urged that the

interpretation placed by the selection agency in excluding the entire teaching experience prior to award of P.hd Degree, is arbitrary and cannot sustain. Counsel has further argued that the certificate dated 13.2.1997 issued by Dr. S.K. Zinatullah relied upon by the petitioner towards his teaching experience had been questioned by the selection agency stating the same to be not genuine. In such regard counsel submits that even if the teaching experience as per certificate dated 13.2.1997 was to be excluded, petitioner would still meet the requisite teaching experience.

Per contra, counsel for the contesting respondents have contended that the petitioner was not eligible for the post as he lacked teaching experience as per stipulation under the advertisement read along with Punjabi University Regulations and the U.G.C guidelines. It has been stated that under the regulations, teaching experience of five years has to be calculated excluding the period spent in acquiring the **degrees**. Further objection has been taken that the petitioner has never worked as a Lecturer which is one of the teaching post recognized by the university so as to seek appointment to the post in question.

It would be apposite to take note that the writ petition was allowed vide judgement dated 25.11.2013 passed by a Coordinate Bench and selection and appointment of respondent no.5 as Reader/Associate Professor (Urdu) had been set aside and directions had been issued to reconsider the claim of the petitioner as against the candidate who had been selected. Against the judgement dated 25.11.2013 two intra court appeals arose i.e. L.P.A-31-2014 at the hands of the selected candidate/respondent no.5 and L.P.A-1057-2014 preferred by the Punjabi University. Both the afore-noticed appeals were disposed of vide order dated 17.3.2015 thereby

setting aside the judgement dated 25.11.2013 by the learned Single Judge and remitting the case to the Writ Court for reconsideration and redetermination as regards eligibility of the petitioner herein.

Having heard counsel for the parties at length, this Court is of the considered view that the relief sought by the petitioner cannot be granted, at this stage.

The process of selection for appointment to the post in question was initiated vide advertisement dated 8.2.2009 pursuant to the selection process having culminated. Private respondent no.5 was issued appointment letter soon thereafter. As of date respondent no.5 has served on the post for a period of a decade almost. Such selection cannot be set at naught after a period of 10 years on the ground that the petitioner had been arbitrarily excluded from consideration. This would be more so as the prayer in the petition is not as regards a declaration with regard to eligibility of respondent no.5. Instant petition had been filed in the year 2011. The case has lost its relevance by sheer passage of time. No effective order can be passed at this stage. Accordingly, the matter is put to an end.

Petition is dismissed.

The issue pertaining to eligibility of the petitioner for the post in question against the backdrop of the relevant university regulations and U.G.C Notification is kept open.

(TEJINDER SINGH DHINDSA)
JUDGE

17.1.2020
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No