

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

**LPA-259-2017 (O&M)
Date of Decision:13.02.2020**

Vanita

...Appellant

Versus

Anju and others

...Respondent(s)

LPA-654-2017 (O&M)

**Guru Jambheshwar University of Sciences and Technology, Hisar through
its Vice Chancellor and another**

...Appellants

Versus

Anju and others

...Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present: Mr. Sanjay Kaushal, Senior Advocate with
Mr. Anurag Goyal, Advocate
for the appellant(s) in LPA-259-2017.

Mr.B.R.Rana, Senior Advocate with
Ms. Diya Bajaj, Advocate
for the appellant(s) in LPA-654-2017 and
for respondent No.3 in LPA-259-2017.

SANT PARKASH, J.

CM-2655-LPA-2017

Application is allowed, as prayed for. Exemption sought is
granted.

CM-2656-LPA-2017

Application is allowed, as prayed for. Additional affidavit dated 04.07.2017 of respondent No.3-Dr. Anil Kumar Pundir, Registrar of Guru Jambheshwar University of Science & Technology, Hisar is taken on record.

Main case(s)

This order shall dispose of two intra court appeals preferred under clause X of the Letters Patent as issue which needs consideration in both the appeals, is common, and arise from judgment dated 14.02.2012 passed in CWP No.26129 of 2013. For facility of reference, facts are being culled out from LPA No.259 of 2017.

The present intra court appeal is directed against judgment dated 14.02.2012 passed by the learned Single Judge of this Court, whereby selection and appointment of appellant to the post of Assistant Professor in Haryana School of Business has been set aside.

The factual matrix of the case is that, the Guru Jambheshwar University of Science and Technology, Hisar (for short 'The University') advertised 7 posts of Assistant Professors (Haryana School Business) out of which 4 posts were kept for general category. Pursuant to the advertisement, appellant and respondent Nos.1 and 4 to 6 amongst others, being eligible, had applied for the said post. They were called for interview. Result was declared on 01.07.2003, wherein appellant (Vanita) and respondent Nos.4 to 6 were selected against the posts in question and Anju (respondent No.1) was declared unsuccessful.

Dissatisfied with the result, Anju (respondent No.1 herein) preferred CWP No.26129 of 2013.

In the writ petition, petitioner (Anju herein respondent No.1) gave up her claim against respondent Nos.4 to 6. She restricted her claim of selection and appointment only qua appellant-Vanita (respondent No.5 in the writ petition). Learned Single Judge observed that the University committed serious error in considering Vanita possessing qualification of M.A. Economics among others, as eligible, which is not one of the qualifications prescribed for the post in question. Therefore, the selection and appointment of appellant-Vanita to the post in question was set aside and the University was directed to re-examine the claim of Anju (respondent No.1 herein).

Hence, the present Letters Patent Appeals by Vanita and University.

It is argued by the learned counsel for the appellant that the appellant (Vanita) is possessing the degree of M.A. (Economics), which is one of the prescribed qualifications for the post in question. It is further contended that the University Grants Commission (for short 'the UGC') specifically mentioned in the regulations that for appointment of teaching faculty in the Universities and College (Management/Business Administration) essential qualification for the post of Assistant Professor would be 1st Class Master Degree in Business Management or Administration or 'in a relevant management related discipline' or 1st class in two years full time PGDM declared equivalent by AIU/accredited by the AICTE/UGC. It is submitted that MA in Economics has been consistently treated as a relevant 'management related discipline' and it is therefore contended that M.A. Economics is equated to that of 'in relevant management related discipline'. It is next contended that application forms were not only screened by the experts, but

even the constitution of the Selection Committee was full of expert bodies, who interviewed the appellant as well as other candidates.

We have heard the learned senior counsel for the appellants and carefully perused the record file.

The entire case of the appellants revolves around the fact as to whether appellant (Vanita) fulfills the requisite qualification prescribed for the post of Assistant Professor in Haryana School of Business or not?

As per UGC Regulations 4.4.5 (1), the minimum essential qualification for appointment of Teaching Faculty in Universities and Colleges-Management Business Administration (Assistant Professor) is as under:-

*“1. First Class Masters Degree in Business Management/Administration/**in a relevant management related discipline** or first class in two year full time PGDM declared equivalent by AIU/accredited by the AICTE/UGC;*

OR

2. First Class graduate and professionally qualified Chartered Accountant/Cost and Works Accountant/Company Secretary of the concerned statutory bodies.

(ii) Desirable:

1. Teaching, research, industrial and/or professional experience in a reputed organization;

2. Papers presented at Conferences and/or published in referred journals.”

Admittedly, the applications for the post in question were scrutinized/screened by a Screening Committee consisting of following members:-

(i) Dean, Haryana School of Business of Guru Jambheshwar University of Sciences & Technology, Hisar

(ii) *Director, Haryana School of Business of Guru Jambheshwar University of Sciences & Technology, Hisar; and*

(iii) *Professor Narender Kumar, Department of Commerce, Kurukshetra University, Kurukshetra (outside expert).*

Moreover, application forms were not only screened by the said experts, but even the constitution of the Selection Committee was full of experts in the field of Management, who interviewed the appellant-Vanita as well as other candidates. The following were the experts, who conducted the interview of the candidates for the post in question:-

1. Vice-Chancellor, Guru Jambheshwar University of Science & Technology, Hisar;
2. Prof. O.P. Sharma, Principal, G.B. Pant Engineering College, Okhla, Delhi (Chancellor's nominee);
3. Prof. B.K.Punia, Haryana School of Business (Dean);
4. Prof. S.C. Kundu, Haryana School of Business (Director);
5. Prof. Manjula Chaudhary, Director, IITTM, Gwalior (subject expert);
6. Prof. Naresh Kumar, Department of Management Studies, KUK (Subject Expert);
7. Prof. Rajbir Singh, Dean & Head, Faculty of Management Studies, DCRUST, Murthal (Subject Expert); and
8. Prof. R.S.Jaglan, Registrar (Secretary).

The Indian Institute(s) of Management, Lucknow and Ranchi have clarified that “Economics” is considered as relevant discipline/subject for appointment to the post of Assistant Professor in the Department of Management/Business Administration/School of Business vide Annexures R-5/7 and R-5/8, respectively (at pages 192-193).

As per Annexure R-5/5, the University Grants Commission has specifically clarified that relevance of subject of inter disciplinary nature of

subject is required to be decided by the concerned appointing authority with the help of subject experts. Further, from perusal of the notifications (Annexure A-1 and A-2), it is crystal clear that the qualifications prescribed by the UGC are to be followed in *toto* and the institutions/universities are not authorised to amend the same in the advertisement. Thus, it is safe to deduce that the learned Single Judge failed to correctly interpret the meaning of “relevant management related discipline”, which was specifically given after a conscious decision by the Rule Making Authority i.e. UGC and clarified by UGC itself vide Annexure R-5/5, which was further clarified by Indian Institutes of Management, Lucknow and Ranchi.

It has been observed by the Hon'ble Supreme Court in the case of **Dr. Basavaiah Vs. Dr. H.L.Ramesh & others, 2010 (8) SCC 372** that the Courts should restrain themselves from interfering in the decision of experts particularly when no malafides has been alleged against the experts constituting the Selection Committee. The relevant observations of the Hon'ble the Supreme Court in paras 45 and 46 are as under:-

“45. We have dealt with the aforesaid judgments to reiterate and reaffirm the legal position that in the academic matters, the courts have a very limited role particularly when no mala fide has been alleged against the experts constituting the selection committee. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts. As a matter of principle, the courts should never make an endeavour to sit in appeal over the decisions of the experts.

46. The courts must realize and appreciate its constraints and limitations in academic matters. 46. In the impugned judgment, the High Court has ignored the consistent legal position. They were expected to abide by the discipline of the precedents of the courts. Consequently, we are constrained to set aside the

impugned judgment of the Division Bench of the High Court and restore the judgment of the Single Judge of the High Court.”

It is also pertinent to mention here that prior to the selection of appellant (Vanita), she was working as Assistant Professor in Management in Om Institute of Technology and Management, Hisar, which is an affiliated college with the respondent-University and that very selection to the said post was already approved by the University.

A bare combined reading of the material placed on record, we are of the considered opinion that the learned Single Judge failed to interpret the meaning of “Relevant Management Related Discipline”, altogether ignoring the above-said material aspect of the matter, resulting in a manifest injustice to the appellant(s) and the same cannot be sustained.

In view of the above, both the Letters Patent Appeals are allowed. The impugned judgment dated 14.02.2012 passed by the learned Single Judge is set aside, and CWP No.26129 of 2013 filed by Anju (respondent No.1) is dismissed.

Pending application(s), if any, shall also stand disposed of.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

13.02.2020
mks

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