

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-31428-2019 (O&M)

Date of decision:01.09.2020

Sandeep Kumar Chaubey and others

.....Petitioners

Versus

Sant Longowal Institute of Engineering and Technology (deemed
University) Longowal

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. R.K.Malik, Sr. Advocate with
Mr. Samrat Malik and
Mr. Sunil Hooda, Advocates for the petitioners

Mr. Chetan Mittal, Sr. Advocate with
Mr. Vivek Singla, Advocate for UOI

ANIL KSHETARPAL, J.

The petitioners have filed the present writ petition under Article 226 of the Constitution of India for issuance of a writ in the nature of Mandamus, directing the respondents to consider the claim of the petitioners for selection and appointment as Assistant Professor (Mechanical Engineering) for which recruitment is being held by the respondents.

Some facts are required to be noticed. The petitioners herein (four in number) claim that they applied for the posts of Assistant Professor in Mechanical Engineering pursuant to the advertisement dated 11.6.2017. Thereafter, the number of posts advertised were revised vide corrigendum dated 23.6.19. On 20.7.2019, the respondent-

Institute issued another recruitment notice advertising 28 posts of Assistant Professors (for Mechanical Engineering Branch 7 posts). The petitioners did not apply pursuant to the advertisement published in year 2019. Through the present writ petition, the petitioners claim that they have the right to be considered as the subsequent advertisement/recruitment notice did not specify that the candidates who have already applied shall be required to apply afresh. They also claim that no intimation has been sent to them for submitting the application afresh.

Pursuant to the notice, a detailed written statement has been filed wherein it has been pointed out that previous recruitment notice published in the year 2017 was scrapped due to various reasons. It has further been pointed out that petitioner No.3 is working on contract basis with the respondent-institute and out of 24 Assistant Professors working on contract basis, 16 did apply afresh pursuant to the recruitment notice issued in the year 2019. It has further been pointed out that petitioner no.4 had also worked with the respondent- institute on contract basis for a period of 4 years. It has further been pointed that in the recruitment notice dated 20.7.2019, the candidates were given 40 days time to apply, however, the petitioners neither sought clarification during this time nor submitted their applications. Hence, the prayer has been made for dismissal of the writ petition.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the paper book. Learned senior counsel appearing for the petitioners has reiterated that

since in the subsequent recruitment notice, it was not recited that previous applicants will also have to apply afresh, therefore, the applications previously submitted by the petitioners are required to be considered. He further submitted that previous recruitment notice has never been cancelled and therefore, the applications submitted by the petitioners are valid. On the other hand, learned senior counsel appearing for the respondent has pointed out that after the issuance of the advertisement dated 11.6.2017, the recruitment process was stopped on the directions of the Central Government till joining of the regular Director of the respondent-institute. It has further been pointed out that in the meantime, pay scales, educational qualifications/experience for teaching posts were revised by the Ministry of Human Resource Development on the recommendations of 7th Central Pay Commission which were implemented in the respondent-institute in December, 2017. Hence, fresh advertisement was required to be issued. It has further been pointed out that on account of subsequent developments, norms issued by AICTE were also required to be followed. Further, recruitment rules for the faculty were finalized in the respondent-institute on 14.6.2019. Still further, Govt. of India on 31.1.2019 implemented 10% reservation for economically weaker sections, both in admission as well as in the recruitments and consequently, fresh advertisement inviting applications from the aspirants was required to be issued. It has also been pointed out that due to increase/ decrease in the workload of some of the Departments, the requirement of the concerned Department had to be reworked and therefore, also fresh advertisement

was issued.

This Court has considered the submissions. Although, argument of the learned senior counsel for the petitioners prima facie appears to be attractive, however, on deeper scrutiny found without any substance. The recruitment notice was initially issued on 11.6.2017. Subsequently a corrigendum was issued on 23.6.2017. Whereas the new recruitment notice was issued on 20.7.2019 i.e after a period of more than two years. Still further, in the Department of Mechanical Engineering, 9 posts were advertised vide recruitment notice dated 11.6.17 whereas in the recruitment notice dated 20.7.2019 only 7 posts were advertised. It is a matter of record that qualifications/experience, pay scales etc. for the post of Assistant Professor in between also underwent a change. In these circumstances, the petitioners cannot claim that in the absence of a specific note or information in this regard, they were misled. It is also not in dispute that in the subsequent recruitment notice it was nowhere specified/indicated that the candidates who have already submitted applications pursuant to previous recruitment notice shall not be required to apply afresh. In these circumstances, the petitioners who are well qualified cannot claim that they have been misled. Still further, it is not in dispute that the petitioners during the period of 40 days from the date of advertisement till the last date for submitting application, did not seek any clarification from the respondent-institute. The petitioner claim that they have submitted representation on 9.10.2019 which fact is strongly denied by the respondent. The petitioner no.1 is stated to have sent an email on

8.11.2019 for the first time, particularly, when screening test was scheduled to be held on 10.11.2019. Hence, the petitioners are not entitled to any consideration, particularly, when they did not choose to apply afresh pursuant to the fresh advertisement/ recruitment notice. Further, as noticed above, petitioner no.3 is working with the respondent-institute on contractual basis and out of 24 faculty members working on contractual basis, 16 did apply pursuant to the fresh advertisement/recruitment notice.

Keeping in view the aforesaid facts, there is no merit in the present petition and hence, dismissed.

01 .09.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)**JUDGE**

Yes / No

Yes / No