

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

1. Civil Writ Petition No. 7026 of 2018 (O&M)

Date of Decision : January 15th, 2020

Dr. Rashmi **PETITIONER(S)**

VERSUS

State of Haryana and others **RESPONDENT(S)**

2. Civil Writ Petition No. 7027 of 2018 (O&M)

Date of Decision : January 15th, 2020

Dr. Prerna **PETITIONER(S)**

VERSUS

State of Haryana and others **RESPONDENT(S)**

3. Civil Writ Petition No. 17392 of 2018

Date of Decision : January 15th, 2020

Rajeev Kumar Gaba **PETITIONER(S)**

VERSUS

Kurukshetra University and others **RESPONDENT(S)**

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. R.K. Malik, Senior Advocate, with
Mr. Mahesh Inder Singh Sidhu, Advocate, for the petitioners
in CWP Nos. 7026 and 7027 of 2018.
Mr. Ashutosh Kaushik, Advocate, for the petitioner in CWP
No. 17392 of 2018.
Mr. Hitesh Pandit, Additional Advocate General, Haryana, for

the State.

Mr. Amarjit Singh Virk, Advocate, for Kurukshetra University.

Mr. Sansar Kundu, Advocate, for the respondent-College in CWP No. 7026 of 2018.

Sarvshri Hemant Bassi, Kewal Singh and Ajay Kumar Dahiya, Advocates, for the respondent-College in CWP Nos. 7027 and 17392 of 2018.

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Sanjay Kumar, J.

These three writ petitions pertain to different posts in different colleges but the common complaint of the three petitioners is with regard to the action of Kurukshetra University, Haryana. The colleges in question are affiliated to this University.

In CWP No. 7026 of 2018, the petitioner aspired for the post of Assistant Professor in History in Hindu Kanya Maha Vidyalaya, Jind, the 5th respondent therein. She was selected for the post by the duly constituted Selection Committee, having secured the first position in order of merit. As per the Haryana Affiliated Colleges (Security of Service) Rules, 2006 (for short, 'the 2006 Rules'), the recommendations of Selection Committees of the affiliated colleges had to be approved by Kurukshetra University. In accordance with this statutory mandate, the Principal of the 5th respondent-College sought the approval of the University. However, by order dated 15.03.2018, the University refused to grant approval on the ground that the petitioner was not qualified as she had secured her Ph.D. degree contrary to the clarification issued by the University Grants Commission, New Delhi (for short, 'the UGC'), on 06.07.2015. Assailing the said refusal, the petitioner came before this

In CWP No. 7027 of 2018, the petitioner applied for the post of Assistant Professor in Commerce in Babu Anant Ram Janta College, Kaul, the 5th respondent therein, pursuant to its Advertisement dated 14.05.2017. She was selected for the post by the duly constituted Selection Committee as she secured the first position in the merit list. Again, as per the 2006 Rules, the 5th respondent-College sought approval of Kurukshetra University. By order dated 14.03.2018, the University denied approval on the ground that the petitioner was not eligible for the post as she had been awarded her Ph.D. degree in violation of the UGC guidelines. Aggrieved thereby, she approached this Court.

In CWP No. 17392 of 2018, the petitioner aspired for the post of Librarian in Babu Anant Ram Janta College, Kaul, the 4th respondent therein, pursuant to the Advertisement issued by it in May, 2017. He was selected for the post and the University also approved the same, as required by the 2006 Rules. Thereupon, he was issued letter of appointment dated 08.08.2017 and started working as a Librarian in the service of the 4th respondent-College. While so, the 4th respondent-College issued letter dated 13.07.2018 informing him that Kurukshetra University had withdrawn its approval, *vide* letter dated 05.07.2018, on the ground that the Ph.D. degree obtained by the petitioner was not in accordance with the clarification issued by the UGC on 06.07.2015. Thereupon, the petitioner filed this writ petition assailing the University's communication dated 05.07.2018. By order dated 18.07.2018 passed in this writ petition, this Court directed that the services of the petitioner should not be dispensed with until further orders.

Heard Mr. R.K. Malik, learned Senior Advocate, instructed by Mr. Mahesh Inder Singh Sidhu, Advocate for the petitioners in CWP Nos. 7026 and 7027 of 2018; Mr. Ashutosh Kaushik, learned counsel for the petitioner in CWP No. 17392 of 2018; Mr. Hitesh Pandit, learned Additional Advocate General, Haryana, appearing for the authorities of the State; Mr. Amarjit Singh Virk, learned counsel for Kurukshetra University; Mr. Hemant Bassi, learned counsel for the respondent-College in CWP Nos. 7027 and 17392 of 2018 and Mr. Sansar Kundu, learned counsel for the respondent-College in CWP No. 7026 of 2018.

The basis for the refusal/withdrawal of approval by Kurukshetra University was its understanding that the petitioners had secured their Ph.D. degrees in violation of the UGC guidelines. According to the University, the UGC guidelines prescribed that a Supervisor for Ph.D. course should be from amongst the faculty members of that University only. Admittedly, the Supervisors of the petitioners were not.

It may however be noted that the UGC (Minimum Standards and Procedure for Award of M.Phil./Ph.D. Degree) Regulations, 2009, did not say so in specific terms and merely decreed that all Universities should lay down and decide on annual basis, a predetermined and manageable number of M.Phil. and doctoral students depending on the number of available eligible Faculty Supervisors. Thereafter, by letter dated 06.07.2015, the UGC recorded that it had come to its notice that some Universities were hiring services of Supervisors who were not their regular teachers and asserted that such a practice was in violation of the Regulations of 2009. It accordingly issued a clarification to the effect that

Universities should allocate Supervisors from amongst their regular faculty members and that any Ph.D./M.Phil. degree awarded by a University under the supervision of a Supervisor who was not a faculty member of that University or its affiliated PG Colleges/Institutes would be in violation of the Regulations. It was only by way of the University Grants Commission (Minimum Standards and Procedure for Award of M.Phil./Ph.D. Degree) Regulations, 2016, which were issued in supersession of the Regulations of 2009, that this position was given statutory support. Regulation 6.2 therein made it crystal clear that only a full-time regular teacher of the University concerned could act as a Supervisor and that external Supervisors were not allowed.

It is however an admitted fact that the petitioners in these three cases secured their Ph.D. degrees long before issuance of the clarification on 06.07.2015 and the Regulations of 2016. The petitioner in CWP No. 7026 of 2018 secured her Ph.D. degree on 25.03.2012 while the petitioner in CWP No. 7027 of 2018 did so on 19.11.2013. Insofar as the petitioner in CWP No. 17392 of 2018 is concerned, he secured his Ph.D. degree on 19.11.2013. The question therefore arises as to whether the UGC's clarification dated 06.07.2015 and its Regulations of 2016 would have retrospective effect. That apart, it is the case of the petitioners that Kurukshetra University is not consistent in its approach in relation to this issue inasmuch as others, who secured their Ph.D. degrees on similar lines as they did, were allowed to work in the University and its affiliated colleges but the petitioners alone were singled out for discrimination. Specific instances were cited by the petitioners in this regard which

remain un rebutted.

At this stage, reference may be made to the order of a learned Judge of this Court in CWP No. 9255 of 2018, titled **Dr. Jyoti Deswal v/s University Grants Commission and others**. A copy of the order dated 27.08.2019 passed therein is placed on record. Perusal thereof reflects that the same issue fell for consideration before the learned Judge, i.e., with regard to the validity of a Ph.D. degree which was conferred upon a candidate whose Supervisor was not from amongst the faculty of the said University. Having considered the issue at length, the learned Judge opined that the Regulations of 2009 promulgated by the UGC had been amended only in 2016 and the same did not have retrospective effect. The learned Judge accordingly held that Ph.D. degrees conferred prior to such amendment could not be tested by that yardstick. The learned Judge further observed that when the Ph.D. degrees conferred upon such candidates had not been cancelled or revoked, the question of doubting the validity thereof by another University did not arise. The learned Judge referred to the judgment of the Bombay High Court in Writ Petition No. 6978 of 2015, titled **Dr Sanjay Tejbahadur Singh v/s The Registrar, Savitribai Phule Pune University and others**, which held to the effect that if one University, which was recognised by the UGC, was permitted to enquire into the correctness or otherwise of the degrees conferred by another University, which was also recognised by the UGC, it would amount to opening a Pandora's box and there would be no sanctity to any degree awarded by any University even if it was recognized by the UGC.

Mr. Amarjeet Singh Virk, learned Advocate, does not dispute

the fact that there are several employees in Kurukshetra University and its affiliated colleges who secured their Ph.D. degrees on the same lines and from the same University as did the petitioners in these three cases. However, he has no explanation to offer as to why different yardsticks are being applied to identically situated people. He would fairly state that given the judgment in **Dr. Jyoti Deswal**, which held the clarification and the amendment to be prospective in nature, the University would have no objection or hindrance in considering the candidature of the petitioners on the strength of their Ph.D. degrees notwithstanding the clarification issued by the UGC on 06.07.2015 and issuance of the Regulations of 2016, long after they secured their Ph.D degrees.

The writ petitions are accordingly allowed. The candidature of the petitioners in CWP Nos. 7026 and 7027 of 2018 shall be considered for appointment to the posts that they were selected for without reference to this aspect and the University shall consider grant of approval therefor without reference to the clarification issued by the UGC on 06.07.2015 and the Regulations of 2016. The petitioner in CWP No. 17392 of 2018 shall be continued in service pursuant to the approval granted earlier by the University. The withdrawal of such approval by the University, *vide* letter dated 05.07.2018, is set aside and in consequence, the letter dated 13.07.2018 issued to the petitioner by the 4th respondent-College is also set aside.

Though the petitioners in CWP Nos. 7026 and 7027 of 2018 were not offered appointment all these years, it is stated that no other Lecturer has been appointed in these Colleges whereby the issue of

seniority in the cadre may arise. The petitioners in these two cases shall therefore be granted appointment, subject to the University being satisfied as to other aspects and granting approval, with retrospective effect from the date they were selected, so that the wrongful denial of employment to them stands redressed to a great extent. The Colleges shall accordingly effect their appointment, after grant of approval, with retrospective effect from the date of denial of approval by the University, but such retrospective appointment shall only be with notional effect and shall bear no monetary benefits till they start working pursuant to their actual employment. This notional service shall however be counted for all other purposes, including seniority and retirement/pensionary benefits.

There shall be no order as to costs.

January 15, 2020
Kang

(Sanjay Kumar)
Judge

Whether speaking/reasoned	Yes
Whether reportable	No