

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

CWP No. 17257 of 2018(O&M)

Date of Decision: April 20, 2021.

Krishan Kumar

..... PETITIONER

Versus

Punjab Engineering College (Deemed to be University) and others

..... RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vinod S.Bhardwaj, Advocate
for the petitioner.

Mr. Ashwani Talwar, Advocate
for respondents No.1 and 2.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Petitioner is aggrieved of decision dated 09.05.2018 (Annexure P6) of respondent No.2-Board of Governors of Punjab Engineering College to treat the process of recruitment of Registrar initiated vide advertisement dated 13.02.2018 (Annexure P1) to be null and void. He further seeks a writ of mandamus for direction to the respondent-authorities to declare the result for the post of Registrar as per recommendations of the Selection Committee pursuant to said advertisement dated 13.02.2018.

Brief facts necessary for adjudication of the matter are that, respondent No.1 issued an advertisement dated 13.02.2018 (Annexure P1) seeking applications for filling up the post of Registrar, Punjab Engineering College, on tenure basis. Petitioner being eligible for said post, applied on 23.02.2018 (Annexure P2). Fifty two (52) applications were received. Scrutiny Committee constituted by respondent No.1 found nine (9) candidates to be ineligible. Thereafter, the Board of Governors in its 55th meeting held on 09.03.2018, after rejecting the view that candidates who intend to come on deputation may be permitted even if they had three years tenure instead of five years, decided that the recruitment process be continued as per the advertisement. Vice-Chancellor, Panjab University was appointed as its nominee of the Selection Committee. It is stated that however, respondent No.1, on its own applied the criteria of UGC guidelines and list of eligible candidates came down from 43 to 30. Petitioner was called for interview vide communication dated 20.03.2018 (Annexure P4) wherein it is stated that in view of large number of applicants, UGC prescribed educational criteria for the post of Registrar alongwith 20 years of minimum experience has been applied for short-listing. Petitioner, being fully eligible appeared before the Selection Committee on 31.03.2018. The Board of Governors is the competent authority for appointment of Registrar. Instead of appointing the selected candidate, agenda item No.56.5 (T) was placed before the Board of Governors on 09.05.2018, with regard to eligibility criteria for the post of Registrar. As per minutes of 56th meeting, it was resolved that the post of Registrar be advertised afresh in national dailies, employment news etc., as per the new UGC norms as approved on table agenda No.56.5. Accordingly, a fresh advertisement was issued on 08.07.2018 (Annexure P8).

Aggrieved of the action of the respondent-authorities in not announcing the name of the sole selected candidate and treating the process of recruitment for the post of Registrar, initiated pursuant to advertisement dated 13.02.2018 as null and void, besides, issuing a fresh advertisement, present writ petition has been filed by the petitioner.

Learned counsel for the petitioner argued that as per written statement filed on behalf of the respondents, it is the petitioner alone who was found eligible for the post of Registrar in the process of recruitment initiated as per advertisement dated 13.02.2018 (Annexure P1). Petitioner duly fulfilled all the eligibility conditions even as per the applicable UGC norms at that time, though said conditions were not mentioned in advertisement dated 13.02.2018 (Annexure P1). It is submitted that the petitioner has a legitimate expectation to be appointed to the post of Registrar pursuant to his selection.

Learned counsel for the petitioner vehemently argued that there was no requirement of issuance of a fresh advertisement because it is apparent from a perusal of communication dated 20.03.2018 (Annexure P4) sent to the petitioner for participation in the interview, that the UGC norms were duly adhered to while carrying out the selection, even though the Board of Governors in its 56th meeting had stipulated that recruitment be made as per conditions advertised. The petitioner, thus, is entitled to appointment to the post of Registrar as he was the sole candidate found suitable for the post.

Per contra, learned counsel for the respondents has argued that it was a *bonafide* mistake which was discovered by the respondents and it was incumbent upon the respondents to set the same right and that there is no *malafide* on the part of the respondents. It is stated that at the time of issuance of

advertisement dated 13.02.2018 (Annexure P1), the prevalent UGC guidelines at that point of time were not taken into account due to an inadvertent oversight. The said advertisement was not according to the applicable UGC regulations which the respondents were bound to follow. It is submitted that though the Selection Committee has recommended the petitioner for appointment, it was decided by the Board of Governors, that keeping in view the fact that the UGC regulations were not taken into account at the time of issuance of advertisement dated 13.02.2018 (Annexure P1) nor reflected in the said advertisement, it would be proper to issue a fresh advertisement in tune with the UGC regulations. Moreover, pursuant to the second advertisement dated 08.07.2018 (Annexure P8), 71 candidates had applied in comparison with 52 candidates pursuant to advertisement dated 13.02.2018 (Annexure P1). It is submitted that the respondent-institution is bound to follow the UGC guidelines. Accordingly, fresh advertisement with eligibility criteria on the basis of UGC guidelines circulated on the basis of criteria laid down by Ministry of Human Resource Development, Department of Higher Education (Annexure R5), was decided to be issued. It is submitted that no candidate even though selected, has a right to appointment on a particular post. It is further submitted that there was a clear cut possibility of certain candidates not applying pursuant to advertisement dated 13.02.2018 (Annexure P1) keeping in view the criteria mentioned therein and that this is borne out by the fact of more candidates applying pursuant to the latter advertisement issued on 08.07.2018. It is submitted that Scrutiny Committee on its own could not have adopted the criteria though approved by the UGC as reflected in communication dated 20.03.2018 (Annexure P4) which was sent to the petitioner and other candidates called for the interview. The said action in

itself was sufficient to cast a shadow on the entire selection, if sustained. It is in the interest of maintaining proper norms and transparency that it was decided by the respondents to issue the advertisement afresh. It is, thus, prayed that this writ petition be dismissed.

I have heard learned counsel for the parties and have gone through the file with their assistance.

Issuance of advertisement dated 13.02.2018 (Annexure P1) on the basis of norms, eligibility conditions which were admittedly not as per the applicable UGC norms is a matter of record. The difference in the eligibility conditions in both the advertisements as tabulated by the respondents in Annexure R13 attached with their written statement and not denied by the petitioner is reproduced as hereunder:-

“Comparison chart of Advertisements for the post of Registrar

Advt. No.	Advt. No. PEC/ Recruitment/07/2018 for wide publicity Indian Express (All editions) and Amar Ujala dated 10.02.2018	Indian Express/ The Tribune/Dainik Bhaskar and AIU Newsletter (23 rd to 29 th July 2018 edition) for wide publicity/ website
Dated	13.02.2018	08.07.2018
Qualifications	Master’s Degree in Arts/Science/Management with at least 55% marks or its equivalent in the UGC seven point scale.	Master’s Degree with at least 55% of the marks or an equivalent grade in a point scale wherever grading system is followed.
Experience	At least 10 years experience at the appropriate levels in teaching/research/consultancy/project management/educational administration and demonstration interest in academics	At least 15 years of experience as Assistant Professor in the Academic level 11* and above or with 8 years of service in the Academic Level 12** and above including as Associate Professor alongwith the experience in educational administration, or Comparable experience in research establishment and/or other institutions of

		higher education, or 15 years of administrative experience, of which 8 years shall be as Deputy Registrar or an equivalent post. *Academic level 11 as per 7 th CPC pay matrix/Grade Pay of Rs.7600/- in PB III as per 6 th CPC.
Emoluments	Pay Scale: Rs.37400-67000+GP Rs.10,000/- plus allowances as per institute rules.	Pay Scale: Rs.37400-67000+GP Rs.10,000/- plus allowances as per institute rules/Academic Level 14 as per 7 th CPC pay matrix.
Appointment	Contractual appointment for 5 years. Those intending to join on deputation/lien must be relieved by current employer for full five years upon being selected.	Appointment on contractual basis for a period of 5 years. Those intending to come on deputation will be allowed if they have available tenure of 03 years services.
Age	Below 55 years	Age of superannuation, as at present, shall continue to be 62 years.

A comparative chart of the candidates who had applied and were found eligible for interview pursuant to the two advertisements, as attached with the written statement and not denied by the petitioner, is reproduced as hereunder:-

“Details of Advertisement for Recruitment of Registrar – 2018

Advt. No.	Advt. No. PEC/ Recruitment/07/2018 for wide publicity Indian Express (All editions) and Amar Ujala dated 10.02.2018	Indian Express/ The Tribune/Dainik Bhaskar and AIU Newsletter (23 rd to 29 th July 2018 edition) for wide publicity/ website
Date	13.02.2018	08.07.2018
Applications received	52	71
Eligible after first Screening	43	49
Not eligible after first Screening	09	22
Eligible after second Screening	16	-

Ineligible after second Screening	27	-
Email to ineligible candidates for Hearing Committee meeting	27	Notice uploaded on Institute Website on 06.12.2018
Ineligible candidates submitted their appeals	13	04
Present in person for Hearing Committee meeting (Committee gone through all the emails and documents received)	02	02
Eligible after Hearing Committee	01	01
Eligible total candidates for interview	17	50
Appear in Interview	12	Stay by the Hon'ble Punjab & Haryana High Court, Chandigarh
Absent in Interview	05	
Result	-	

It is mentioned in communication dated 20.03.2018 (Annexure P4), calling the petitioner for interview, that the following criteria was being followed:-

“It is for your kind information that in view of large number of applicants to shortlist the UGC prescribed educational criteria for post of Registrar alongwith 20 years of minimum experience has been applied. Same is reproduced for your ready reference:

- (i) At least 15 years' of experience as Assistant Professor in the AGP of Rs.7000 and above or with 8 years' of service in the AGP of Rs.8000 and above including as Associate Professor along with experience in educational administration **or**
- (ii) Comparable experience in research establishment and/or other institutions of higher education **or**
- (iii) 15 years of administrative experience of which 08 years shall be as Deputy Registrar or an equivalent post.”

It is a matter of record that the above are in tune with the UGC regulations which were applicable at the time of issuance of advertisement dated

13.02.2018 (Annexure P1) duly circulated by UGC on 18.01.2018 (Annexure R4) Therefore, it was indeed incumbent upon the respondents to have clearly stipulated the requisite applicable conditions in its advertisement issued on 13.02.2018. Admittedly, this was not done. Learned counsel for the petitioner has vehemently argued that in the minutes of the 56th meeting of the Board of Governors, it is observed that Selection Committee could identify only one suitable candidate and that in order to attract quality candidates and most number of applications, the post should be advertised afresh. Such an observation, it is submitted, is clearly contrary to the record as it is not as if only one application was received. As many as 52 applications were received and the process of selection was carried out by the Selection Committee and thereafter the petitioner whose candidature conformed with the applicable UGC norms, was recommended for selection to the post of Registrar. This argument though on first flush is attractive but does not hold good for the reason that it is clearly mentioned that the UGC has laid down recruitment rules for appointment to the post of Registrar and after deliberations it was decided that the current process be treated as null and void and fresh advertisement be issued on the basis of new UGC norms. There is equally no merit in the argument that as no new recruitment rules were laid down by UGC as mentioned in the Minutes, therefore, the prior selection process be upheld. Notwithstanding the language of the Minutes of the 56th meeting, it is an admitted position that advertisement dated 13.02.2018 was not in conformity with the applicable UGC norms at that time. Merely because the petitioner is compliant with the UGC norms cannot be a ground to uphold the said selection process as the possibility of candidates eligible as per said UGC norms, not applying for the post cannot be ruled out.

Decision taken on item No.55.6 in the 56th meeting of the Board of Governors is reproduced has hereunder:-

“Prof. Arun Grover, the board nominee on the selection committee informed that the committee could identify only one candidate suitable for Registrar’s position at PEC based on the qualifications and experience advertised. The advertisement had envisaged applicant to be below 55 years of age and that those who intending to join on deputation/lien must be relieved by current employer for full five years upon being selected and not three years. On hindsight, it is felt that in order to attract quality candidates and also more number of applications, the post be advertised afresh in national dailies, employment news, AIU newsletters etc. It was also informed that recently UGC has laid down new recruitment rules for the appointment of Registrar. After deliberation, it was decided that the current process be treated as null and void, and a fresh advertisement for the post of Registrar be initiated based on the new UGC norms, as approved under Table agenda, 56.5 (T). The process be completed before the start of the next academic session.”

Thereafter, the process for appointment of Registrar was reinitiated and approval of the Chandigarh Administration was duly secured and fresh advertisement issued on 08.07.2018 in consonance with the applicable UGC norms at that time. It is not in dispute that respondent-University being a deemed university is bound by the directions of the Government of India/UGC guidelines. Reference has been made to communication dated 18.01.2018 (Annexure R4) by the Secretary, UGC, New Delhi and communications dated 02.11.2017 (Annexure R5) and 31.12.2018 (Annexure R6) by the Government of India, Ministry of Human Resource Development, Department of Higher Education to

the Secretary, University Grants Commission, New Delhi.

Doubtlessly, Scrutiny Committee/Selection Committee found the petitioner eligible for appointment to the post of Registrar. Proceedings of the Scrutiny Committee for shortlisting the candidates were placed before this Court. A perusal thereof shows that shortlisting has been done as per the criteria which stood notified by the UGC at that time, but admittedly not reflected in the advertisement (Annexure P1). In the given circumstances, respondents cannot be faulted for re-advertising the post of Registrar. It is a settled position that it was not open to the respondent-authorities to carry out the selection process in this manner i.e., according to the applicable UGC norms and regulations which were in place on 13.02.2018 but not reflected in any manner in the said advertisement. In fact, conditions mentioned in advertisement dated 13.02.2018 are different. It is relevant to note at this stage that no *malafide* has been alleged much less proved. Petitioner has not raised any such ground even at the time of arguments. In such a situation, the respondents have correctly readvertised the post of Registrar.

Respondent-authorities are, thus, well within their right to have re-advertised the post of Registrar in consonance with the applicable UGC regulations. It is a settled position that no vested right accrues even to a selected candidate for appointment and at the same time, it is also not open to the respondent-authorities to act in an arbitrary or illegal fashion to deny appointment in a given situation. However, in the present case, respondent-authorities indeed have a valid reason to re-advertise the post of Registrar and carry out the selection process afresh.

In this view of the matter, I do not find any ground to interfere in this

writ petition. However, it is to be noted at this stage that though the petitioner had not applied pursuant to advertisement dated 08.07.2018, it was fairly stated by learned counsel for respondents No.1 and 2 at the time of arguments that the petitioner's candidature shall be duly considered. Therefore, it is directed that the petitioner, who has been accepted and admitted to be eligible as per the applicable UGC norms and fulfilling the applicable criteria, shall be considered for appointment alongwith the other candidates who are stated have applied pursuant to advertisement dated 08.07.2018, in accordance with law.

Writ petition is accordingly disposed of.

April 20, 2021.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No