

Ct. 21.11
No. 238 2022
93
akb

W.P.A. 24657 of 2015

Md. Reja Ahammad
-Versus-
State of West Bengal & Ors.

Ms. Usha Maiti
Mr. Sakya Maity

...For the Petitioner

Mr. Swapan Banerjee
Mr. Subhrangsu Panda
Mr. Saugato Mitra
Ms. Ina Bhattacharyya
Ms. Mithu Singha Mahapatra ...For the Respondent University

An advertisement was published by the Sidho Kanho Birsha University for filling up, inter alia, a post of Assistant Professor in Political Science. The essential qualifications prescribed for the post were as follows :

***“I. ASSISTANT PROFESSOR :
A0 ASSISTANT PROFESSOR (PAY BAND – Rs.
15,600 – 39,100/- PLUS ACADEMIC GRADE PAY
OF Rs. 6,000/-) IN ARTS, HUMANITIES,
SCIENCES, SOCIAL SCIENCES, COMMERCE,
EDUCATION, LANGUAGES, LAW, JOURNALISM
& MASS COMMUNICATION.***

- i) Good academic record as defined by the concerned University with at lease 55% marks (or an equivalent grade in a point scale wherever grading system is followed) at the Master Degree level in a relevant subject, along with relaxations applicable to specified categories, as explained in the Note).***
- ii) The candidate must have cleared the National Eligibility Test (NET) conducgted by the UGC (CSIR) or similar test accredited by the UGC lke NET/SLET/SET, along with examptions to specified categories, as explained in the Note 2.’***

The petitioner applied for the post in question

along with two other candidates. Before the Selection Committee, other two candidates did not turn up. The petitioner faced interview alone but the Selection Committee did not recommend his name. Challenging the action of the University in not appointing the petitioner to the post in question, this writ petition has been filed.

Ms. Usha Maiti, learned Advocate appearing for the petitioner with Mr. Sakya Maity, learned Advocate argues that the petitioner had all the requisite qualifications to be appointed to the post in question. She submits that the petitioner was a Master Degree holder. The petitioner also qualified NET and he had the past teaching experience also. Therefore, the petitioner ought to have been selected for the post in question being the sole candidate. Ms. Maiti argues that even if there was only one candidate, it was obligatory for the Selection Committee to recommend the petitioner, who had all the requisite qualification.

On the other hand, it has been submitted by the learned advocate appearing on behalf of the University that the Selection committee did not find the petitioner to be a suitable candidate to be appointed to the post in question and, therefore did not recommend his name. Unless recommended by the Selection Committee, no one can be appointed as a teaching staff of the University.

To appreciate the controversy, it is necessary to indicate the scores obtained by the petitioner in the interview. The scores are as follows :-

<i>“H.S.</i>	<i>U.G.</i>	<i>P.G.</i>	<i>N/S</i>
<i>2.32</i>	<i>5.5</i>	<i>5.5</i>	<i>10 = 23.32</i>

Overall knowledge & Skill 05 and Interview 03 Total Score = 31.32.”

It is also important to take note of the relevant recruitment Rules namely, Sidho Kanho Birsha University Act, 2010. Section 29(3) and Section 30 of the said Act read as follows :

“29. (1) a University Professor shall be appointed by the Executive Council on the recommendation of a Selection Committee consisting of–

- (i) the Vice-Chancellor as the Chairman;***
- (ii) the Dean of the Faculty Council concerned;***
- (iii) a person, not holding any office of profit under the University and having special knowledge of the subject which the Professor will teach, nominated by the Chancellor;***
- (iv) two persons, not holding any office of profit under the University and having special knowledge of the subject which the Professor will teach, nominated by the Executive Council.***

(3) A University Reader or a University Lecturer shall be appointed by the Executive Council on the recommendation of a Selection Committee consisting of

–

- (i) the Vice-Chancellor as the Chairman;***
- (ii) the Dean of the Faculty Council concerned or, in his absence, the Head of the Department concerned;***
- (iii) a person, not holding any office of profit under the University and having special knowledge of the subject which the Reader or the Lecturer will teach, nominated by the Chancellor;***
- (iv) two persons, not holding any office of profit under the University and having special knowledge of the subject which the Reader or***

the Lecturer will teach, nominated by the Executive Council.”

“30.(1) Three members, of whome at least two shall be persons having special knowledge of the subject concerned, shall be quorum for a meeting of a Selection Committee.

(2) If any member of a Selection Committee is unable to attend, he may send his opinion in writing to the Vice-Chancellor and such opinion shall be taken into consideration by the Committee.

(3) If the Executive Council does not accept the recommendation of a Selection Committee, it shall refer the recommendation back to the Selection Committee with reasons for reconsideration and if the Executive Council does not accept the reconsidered views of the Selection Committee, the matter shall be referred to the Chancellor with reasons and the decision of the Chancellor shall be final.”

The Act makes it clear that a University Lecturer cannot be appointed unless recommended by the Selection Committee. The petitioner in this case had the required or essential qualifications. Such essential qualifications only brought the petitioner within the zone of consideration but did not entail his appointment. A duly qualified candidate has to be found suitable to be appointed by the Selection Committee. In the present case, the Selection Committee awarded three marks out of twenty marks in the interview and under the head “Overall knowledge and skill” awarded five marks out of fifteen. Ultimately, it did not recommend his name for the post in question. The Act does not provide for any criteria to be applied in selecting a candidate to the

post in question. The Act leaves it to the discretion of the Selection Committee. The Selection Committee in such case has its liberty to evolve its own criteria to adjudge the suitability of a candidate. Evolvement of the criteria and application thereof is not a subject of judicial review. Unless mala fide or violation of any statutory Rule is demonstrated in the selection, no interference is called for.

As per provision 30(3) of the said Act of 2010, as quoted above, it is for the Executive Council to accept or not to accept the recommendation of the Selection Committee. In the event the recommendation is not accepted, the Executive Council refers the matter back to the Selection Committee with the reasons for reconsideration and if the Executive Council does not accept the reconsidered view of the Selection Committee, the matter has to be referred to the Chancellor with the reasons, and the decision of the Chancellor is final.

I find no violation of the Act, namely, Sidho Kanho Birsha University Act, 2010 and there is no ground to interfere with the impugned selection process.

Accordingly, W.P.A. 24657 of 2015 is dismissed.

There will be no order as to costs.

(Kausik Chanda, J.)