

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

CWP-99-2014 (O & M)
Date of Decision: November 24, 2022

MS. MEENAKSHI YADAV**PETITIONER**

VERSUS

**MAHARSHI DAYANAND UNIVERSITY, ROHTAK
AND ORS****RESPONDENTS**

(2) **CWP-5772-2014 (O & M)**

RAMBIR SINGH**PETITIONER**

VERSUS

STATE OF HARYANA AND ORS**RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Varun Veer Chauhan, Advocate for the petitioner
in CWP-99-2014.

Mr. Rajkapoor Malik, Advocate,
for the petitioner in CWP-5772-2014 and
for respondent No.5 in CWP-99-2014.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Amit Rao, Advocate for
Mr. Anurag Goyal, Advocate
for respondents No.1 in CWP-99-2014 and
for respondent No.3 in CWP-5772-2014.

Mr. Salil Sabhlok, Advocate for respondent No.6-UGC in
CWP-99-2014.

ANUPINDER SINGH GREWAL, J.

1. Both these petitions are being decided by a common order as these involve similar questions of facts and law.

2. The petitioner in CWP-99-2014 has challenged the selection of respondent No.5 for the post of Assistant Professor in Physical Education in the general category in respondent No.3-College. She has also sought a further direction to the official respondents to select and appoint her on the post of Assistant Professor in accordance with the selection criteria issued by the competent authority i.e. respondent No.2.

3. The petitioner in CWP-5772-2014, who is respondent No.5 in CWP-99-2014, has sought a direction to the respondents to issue him an appointment letter for the post of Assistant Professor in Physical Education, as he has been found to be the most meritorious candidate and the proceedings of the Selection Committee had been approved by the Vice Chancellor, MDU, Rohtak on 04.03.2014.

4. Learned senior counsel for the petitioner in CWP-99-2014 submits that the Selection Committee (respondent No.4) had wrongly applied the criteria approved by respondents No.2 and 3 by awarding extra marks to respondent No.5. Respondent No.5 had been awarded 16 out of 20 marks in the interview while the petitioner had secured 9.83 out of 20. Respondent No.5 /Rambir Singh scored 23 marks out of 50 on the basis of academic/research performance although as per expert opinion (Annexure P-13), he was entitled to only 14 marks as he had been wrongly awarded 04 marks for graduation and further 05 marks for research papers presented in the International and National

seminars sponsored by UGC/State Government. He had done Bachelors in Physical Education, which was a two year course and, therefore, he was not eligible for 04 marks of graduation. The research papers, which he had presented, were not sponsored/approved by the UGC/State Government and, therefore, he was not entitled to any marks for research. Respondent No.5 had secured 16 marks in the interview and 14 marks in the academic/research and had, therefore, obtained a grand total of 30 marks. The petitioner had secured 9.83 marks in the interview and 26 marks in the academic/research performance making a grand total of 35.83 marks, which are more than the marks obtained by respondent No.5 and she is, therefore, entitled to the appointment.

5. Learned counsel for respondent No.3 in CWP-99-2014 submitted that the selection criteria fixed by the Director General, Higher Education, was not followed and the Chairperson of the Selection Committee gave dissenting opinion in writing on the attendance sheet of the candidates appended at Annexure P-4 (colly). The respondent-College cannot issue appointment letter unless the proceedings of the Selection Committee are approved by the University/DHE. There were various anomalies in the selection process. The major anomaly was that the signatures of respondent No.5 on the attendance sheet did not match with that on the application form submitted by him, which was duly confirmed by the handwriting expert. A copy of the report is at Annexure R-3/3. The representation made by the petitioner on 21.09.2013 and letter written by the respondent-college on 17.10.2013 were forwarded to the Vice Chancellor but no reply was received. The respondent-college again requested the Vice Chancellor to sort the matter vide letter dated 10.12.2013

and made representations appended as Annexure R-3/9 and R-3/10 but later, letter dated 04.03.2014 was received by respondent-college from Vice Chancellor according approval to the proceedings of the Selection Committee dated 20.09.2013 for the appointment of respondent No.5. The respondent-college through letters at Annexures R-3/12 and R-3/13 pointed out the irregularities in the selection process to the Director General, Higher Education and Dean, Colleges Development Council, MDU, Rohtak respectively. The validity of the panel was for six months only but vide letter dated 04.03.2014 at Annexure R-3/11, the Vice Chancellor gave its approval to the proceedings of the Selection Committee dated 20.09.2013.

6. Learned counsel for respondent No.6- UGC submitted that the Deputy Director, UGC has already filed an affidavit on 16.09.2019 in pursuance to the order passed by this Court on 30.04.2018 and has clarified that the research papers presented by respondent No.5 in the International Seminar held from 24.02.2012 to 26.02.2012 and National Seminar held from 09.12.2010 to 11.12.2010 (Annexure P-6 colly.) were not sponsored by UGC.

7. Heard.

8. The petitioners had applied for the post of Assistant Professor, Physical Education in the general category in terms of the advertisement issued by respondent No.3 on 25.06.2013 in the classified column of Hindustan Times. In the advertisement, it was mentioned that the pay scale, age and qualification for teaching and non-teaching posts is as per UGC/State Government/M.D. University, Rohtak norms. The notification dated 25.06.2013 issued by the Director General, Higher Education, Haryana, sets out the revised criteria for the selection of Principals and Assistant Professors

in non-government aided colleges which will be applicable with immediate effect. A copy of the notification dated 25.06.2013 is at Annexure P-3 and the relevant extract is reproduced hereunder:-

“For Science and Practical Subjects:-

Criteria for the selection of Lecturers in the Govt. Aided Private Colleges in the State of Haryana.

Criteria Distribution		Marks Distribution
(A)	Academic Record	(50%)
(B)	Assessment of Domain knowledge & Teaching Skills	(30%)
(C)	Interview Performance	(20%)
Total 100 Marks		

(A) Academic Record

I Matriculation (Max.5 Marks)

75+ to 85 %	85+ to 90%	Above 90%
(2Marks)	(3 Marks)	(5 Marks)

II 10+2 (Max.5 Marks)

75+ to 85 %	85+ to 90%	Above 90%
(3Marks)	(4 Marks)	(5 Marks)

III Bachelor Degree (Max.10 Marks)

70+ to 85 %	80+ to 90%	Above 90%
(4Marks)	(6 Marks)	(10 Marks)

IV Master Degree (Max.20 Marks)

70+ to 75 %	75+ to 80%	80+ to 85%	Above 85%
(5 Marks)	(10 Marks)	(15 Marks)	(20 Marks)

V Merits (Max.10 Marks)

Gold Medal at PG Level stood 1 st in the University	Gold Medal at UG Level stood 1 st in the University	Topper in Board Examination at 10+2 Level
(5Marks)	(5 Marks)	(5 Marks)

(B) Assessment of Domain knowledge & Teaching Skills (30 Marks)

1. Publication (Maximum 10 Marks)

a)	Subject Books (ISSN/ISBN)	03 Marks for each book
b)	Research Paper in referred International Journal (ISSN/ISBN)	02 marks for each Publication
c)	Research paper in referred National journal (ISSN/ISBN)	01 marks for each Publication

II **Research Performance (Max.05 Marks)**

Research paper presented in:

a)	International Seminar Sponsored by UGC/State Government	03 Marks for each paper
b)	National Seminar Sponsored by UGC/State Government	02 marks for each paper

III **Co-curricular Activities (Max. 05 Marks)**

a)	Youth Festival recommended	01 Mark each
b)	Debates/Declamation/Quiz/Poetic Recitation/Literary & Fine Arts etc. (State Level Position)	01 mark for each paper
c)	N.C.C. (C. Certificate) N.C.C. (B. Certificate)	02 marks
d)	NSS certificate (National level)	01 Marks

IV **Sports (Max. 05 Marks)**

a)	Position at National Level	1 st Position – 5 marks, 2 nd Position-3 marks, 3 rd Position-2 marks
b)	Position at Inter-University Level	03 marks for 1st, 2 marks for 2 nd and 1 mark for 3 rd position

V **Teaching Experience (Max. 5 Marks)**

1 mark for each academic year, where academic year means at least 150 days teaching including both semesters.

C **Interview (20 Marks)**

(i)	Subject Knowledge & Concept Clarity	10 Marks
(ii)	Communication Skills & ICT Knowledge	05 Marks
(iii)	Overall Personality	05 Marks

B **Grand Total (A=50) + (B=30) + (C=20) = 100 Marks”**

9. The petitioner/Meenakshi Yadav is stated to have obtained 35.83 marks while respondent No.5/Rambir Singh has obtained 39 marks. The petitioner had objected to the award of marks to respondent No.5 on the basis

of academic/research performance.

10. On the direction of the Coordinate Bench of this Court dated 16.01.2020, the Director General, Higher Education appointed an expert committee consisting of Sh. T.N. Saini, Joint Director and Sh. Jasmander, Deputy Director, which submitted the report on 19.02.2020 (Annexure P-13). The Expert Committee had opined in its report (Annexure P-13) that respondent No.5/Rambir Singh had been wrongly awarded 04 marks for graduation as per the criteria laid down "For Humanities (Non-Practical Subjects) and Commerce". Respondent No.5 had obtained 61.25% in Bachelors degree and as per the correct criteria, which was to be followed, he was not entitled to any marks under the sub-head of Bachelors degree unless he had secured 70+ to 80% marks in Bachelors degree under the criterion laid down for "For Science and Practical Subjects" (Annexure P-3 colly). It was also stated in the affidavit filed by Ms. Sarita Mukhija, Deputy Secretary, UGC dated 16.09.2019 that the research papers presented by respondent No.5 in the International and National Seminars were not sponsored by UGC. Therefore, respondent No.5 had been wrongly awarded 05 marks towards research papers.

11. In the status report filed by way of an affidavit of Deputy Director O/o Director General, Higher Education, Haryana on behalf of respondent No.2 on 06.01.2022, it is submitted that the revised selection proceedings were received in the office of respondent No.2 for approval on 05.12.2021. After thorough examination of the selection proceedings, respondent No.2 observed that the Selection Committee has again not followed the prescribed criteria while preparing the selection proceedings. The Chairman of the Selection Committee had also given a dissenting note in writing on 20.09.2013 on the

attendance sheet of the candidates against the majority decision taken by the other members of the Selection Committee and in view of the disagreement, it was decided on 15.12.2021 to reject the revised selection proceedings and the intimation in this regard was sent to the concerned college-respondent No.3 on 22.12.2021.

12. It is manifest that the selection has been cancelled on the purported ground that there was disagreement among the Selection Committee members with regard to the applicability of the selection criteria. There is no dispute with regard to the criteria adopted by the Selection Committee. It has neither been pleaded nor there is any material on record to suggest that the criteria which had been adopted by the Selection Committee was not in accordance with the advertisement or the rules. The selection has been cancelled on the ground that the criteria had not been correctly followed. This Court had, by order dated 09.11.2021, directed the respondents to re-examine the matter. The petitioners had promptly filed these petitions in the year 2014 and the matter has been pending adjudication since then. It is also not the case that the entire selection is vitiated on the account of malpractices where it is not possible to separate the tainted candidates from the *bona fide* candidates. It would also be unjust and inequitable if the action of the official respondents in cancelling the selection on the ground of not following the criteria, is upheld. It would be apposite if the respondents are directed to complete the selection process in terms of the criteria. The candidature of the petitioners and other candidates, who had applied for selection, would be considered in terms of the criteria set out by respondent No.2.

13. Consequently, the petition is disposed of with a direction to

respondent No.2 to constitute a fresh Selection Committee which would thereafter complete the selection process after consideration of the candidatures of all the eligible persons, who had applied in terms of the afore-noted advertisement.

(ANUPINDER SINGH GREWAL)
JUDGE

November 24, 2022
A.Kaundal/sonia

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