

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

219

CWP-5972-2018
Date of Decision :14.12.2022

Dr. Parmod Kumar**...Petitioner**

Versus

State of Haryana and others**....Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Suneel Ranga, Advocate for the petitioner.

Mr. Sandeep Singh Mann, Addl. A.G. Haryana.

Mr. Balvinder Sangwan, Advocate for respondents No.3 to 5.

Ms. Sukhmani Patwalia, Advocate for respondent No.6.

Mr. Sahil Sabhlok, Advocate for respondent No.7.

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Harsimran Singh Sethi, J. (Oral)

In the present writ petition, challenge is to order dated 07.02.2018 (Annexure P/15) by which, the claim of the petitioner for considering his candidature for the post of Assistant Professor (College Cadre) as advertised by respondents vide advertisement No.10/2016 dated 16.02.2016 (Annexure P/1) has been declined by the respondents on the ground that the petitioner failed to prove his eligibility as required as per advertisement up to the last date of submission of application form.

The respondent-Haryana Public Service Commission advertised 1647 posts of Assistant Professor (College Cadre) to be filled in various subjects in the Higher Education Department of the Government of Haryana.

As per the advertisement, essential qualification was mentioned in Clause-V

of the advertisement, according to which, the candidates were required to have passed NET conducted by the University Grants Commission but exemption to qualify the NET or SET examination was given to the candidate having Ph.D degree awarded to the said candidate which should be in accordance with the University Grants Commission Regulations, 2009.

The petitioner, who was having Ph.D degree from IIT, Delhi has not passed NET conducted by the University Grants Commission, applied for the post of Assistant Professor considering himself eligible in the subject of Physics. The petitioner competed and cleared the written examination and was called for scrutiny-cum-interview. During the scrutiny, the petitioner was declared ineligible on the ground that though, the petitioner had obtained Ph.D degree from IIT, Delhi but there is no certificate attached by the petitioner to prove that the said Ph.D degree is in consonance with the University Grants Commission Regulations, 2009, hence, the said Ph.D degree cannot be taken into consideration. Respondent-Commission held that as the petitioner has not passed NET, which is a mandatory qualification as per the advertisement for appointment, the petitioner cannot be treated as an eligible candidate for appointment to the post of Assistant Professor (College Cadre).

After the declaration of result, the petitioner approached IIT, Delhi to certify that the Ph.D degree obtained by the petitioner from IIT, Delhi is in consonance with the University Grants Commission Regulations, 2009. Initially IIT, Delhi refused to give the said certificate to the petitioner on the ground that the University Grants Commission Regulations, 2009 does not apply on IIT, Delhi but curriculum, which the Ph.D candidate has to undergo while obtaining Ph.D degree from IIT, Delhi was mentioned. The said certificate dated 02.03.2016 issued by IIT, Delhi has been appended as

Annexure P/16 with the present writ petition.

Thereafter, the petitioner again approached the IIT, Delhi and on 05.03.2018, after the declaration of result, the IIT, Delhi gave the petitioner another certificate dated 05.03.2018 (Annexure P/22) that the curriculum undergone by the petitioner while doing Ph.D degree from IIT, Delhi is on the same lines as prescribed by the University Grants Commission Regulations, 2009. Learned counsel for the petitioner submits that as the said certificate dated 05.03.2018 (Annexure P-22) covers the case of the petitioner that the Ph.D degree possessed by the petitioner is in accordance with the University Grants Commission Regulations, 2009, cancellation of the candidature of the petitioner by the respondents is totally arbitrary and illegal.

After notice of motion, the respondents have filed reply. Learned counsel for the respondent-Commission has stated that there were certain conditions, which have been prescribed as essential qualifications to be fulfilled by the candidate while applying for the post in question upto the last date of submission of application form. As per the respondents, though, the petitioner had a Ph.D degree awarded to him by IIT, Delhi but as no certificate was attached by the petitioner which proved that the Ph.D degree of the petitioner is in accordance with the University Grants Commission Regulations, 2009, which is one of the requirement to have a valid Ph.D degree, hence, the said qualification of the petitioner cannot be taken into consideration and in the said situation, a candidate, who has not cleared NET, cannot be treated as eligible. As per the respondents, the petitioner had to submit a certificate along with Ph.D degree certifying that the same has been obtained as per the University Grants Commission Regulations, 2009, which certificate was never submitted by the petitioner at any given point of

time during the selection process.

Learned counsel for the petitioner submits that once the petitioner had a Ph.D degree, which was ultimately found to be in consonance with the University Grants Commission Regulations, 2009 as per the certificate given by the IIT, Delhi, dated 05.03.2018 (Annexure P/22), the petitioner has to be treated as eligible for all intent and purposes.

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

The essential qualifications required for appointment to the post of Assistant Professor (College Cadre) in the subject of Physics have been prescribed in Clause-V of the advertisement. The same are as under:-

5. Essential Qualification:-

(1) Assistant professors (all subject except Fine Arts and Mass Communication

(a) Good academic record with atleast 55% of the marks or an equivalent grade of B in the 7 point scale with letter grades O,A,B,C,D,E and F at the Master's Degree level in the relevant subject from an Indian University or an equivalent degree from a Foreign University.

(b) Knowledge of Hindi/Sanskrit up Matric standard.

(c) National Eligibility Test (NET) conducted by the University Grants Commission, Counsel of Scientific and Industrial Research or similar test accredited by the University Grants Commission like SLET/SET shall remain the minimum eligibility condition for recruitment and appointment as Assistant Professor in Colleges.

Provided that the candidates, who are, or have been awarded a Ph.D. Degree in accordance with the University Grants Commission (minimum standards and procedure for award of Ph.D degree) regulation, 2009 shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent position in colleges.

Provided further that NET/SLET/SET shall not be

required for such Master's Programmes in disciplines for which NET/SLET/SET is not conducted”.

A bare perusal of the above would show that as per the clause 5 (1) (c) of the advertisement, a candidate is required to have passed NET conducted by the University Grants Commission in order to attain minimum eligibility for appointment to the post of Assistant Professor (College Cadre). Non-possession of the said qualification is only exempted in case candidate has Ph.D degree obtained in accordance with the University Grants Commission Regulations, 2009.

This Court has to examine as to whether keeping in view the facts and circumstances, according to which, it is not in dispute that the petitioner had Ph.D degree to his credit on the date of filling of the application form, which degree was also submitted by the petitioner along with the application form, the petitioner can be treated eligible for competing for the post of Assistant Professor (College Cadre) in Physics by treating the said Ph.D. Degree in accordance with the University Grants Commission Regulations, 2009 *ipso facto* or there has to be a certificate certifying the same to be in accordance with the University Grants Commission Regulations, 2009.

It is a conceded position that no such document was attached by the petitioner alongwith the application form which certifies that the Ph.D. degree of the petitioner was in accordance with the University Grants Commission Regulations, 2009 except that a certificate issued by the IIT, Delhi dated 02.03.2016 (Annexure P/16), which stated that the University Grants Commission Regulations, 2009 do not apply to IIT, Delhi but described the details of the curriculum which the petitioner had undergone while obtaining said Ph.D degree from IIT, Delhi. Learned counsel for the petitioner has argued that firstly there is no requirement that a certificate has

to be attached alongwith Ph.D degree to certify that the same is in accordance with the University Grants Commission Regulations, 2009 as per the terms and conditions of the advertisement and even, if it is assumed for the sake of argument that any such condition exists, the certificate given to him by the IIT, Delhi dated 02.03.2016 (Annexure P/16) is to be treated valid as it is describing the fact that the Ph.D degree obtained by the petitioner from IIT, Delhi is in accordance with the University Grants Commission Regulations, 2009.

The argument of the learned counsel for the petitioner that there was no requirement to obtain a certificate that the Ph.D. degree awarded to the petitioner is in accordance with the University Grants Commission Regulations, 2009 hence, no certificate was required to be attached, is liable to be rejected on the ground that once not only possession of Ph.D degree was required as per the advertisement but the same has to be in accordance with the University Grants Commission Regulations, 2009 hence even if, a candidate has Ph.D. degree, whether the same confirms the University Grants Commission Regulations, 2009, has to be certified so as to be taken into consideration for the purpose of treating the said Ph.D degree as valid Ph.D degree so as to exempt the candidate concerned from passing the NET examination. In the absence of any such certification, mere possession of Ph.D. degree will not fulfill the requirement of rules governing the service, which was also part of the advertisement. Hence, assertion of the petitioner that no certificate confirming that the Ph.D degree possessed by a candidate is in accordance with the University Grants Commission Regulations, 2009 was required to be attached cannot be accepted and the same is accordingly rejected.

Further, as per the advertisement, candidates were required to

submit a certificate from the competent authority certifying that the Ph.D degree awarded to them is in accordance with the University Grants Commission Regulations, 2009 which fact is clear from the note mentioned in the advertisement under the heading of Essential Qualification, which is as under:-

NOTE As mentioned in the proviso of the qualification for the post of Assistant Professor (College Cadre) the candidates concerned are requested to submit a certificate from competent authority with respect to the Ph.d degree awarded to them that awarded degree Ph.d degree is in accordance with the University Grants Commission (minimum standards and procedure for award of Ph.d degree)Regulation, 2009.

The candidates who had applied earlier in response to advt. No.7/2014 (published on 24.01.2014) and announcement dated 09.6.2014 on the basis of Ph.d. Degree are also directed to submit a certificate from competent authority with respect to the Ph.d degree awarded to them that awarded Ph.d degree is in accordance with the University Grant Commission (minimum standards and procedure for award of Ph.d degree) regulation, 2009.

Keeping in view the above requirements of the advertisement, it is clear that a candidate was required to submit a certificate alongwith Ph.D degree certifying that the same is in accordance with the University Grants Commission Regulations, 2009. In the absence of such certification, candidate cannot be treated as having possessed a valid Ph.D degree so as to seek exemption from passing of NET.

The second argument of the learned counsel for the petitioner is that the petitioner has submitted a certificate issued to him by the IIT, Delhi

dated 02.03.2016 (Annexure P/16) wherein, the curriculum which the petitioner had undergone while obtaining Ph.D degree was mentioned which certificate clearly shows that the said curriculum is in accordance with the University Grants Commission Regulations, 2009.

The said argument of the petitioner depends upon the inference being drawn by the petitioner to claim that his Ph.D degree was as per the University Grants Commission Regulations, 2009. The requirement of the advertisement was not the inferences but the certificate certifying the said aspect. In the absence of any certificate, certifying the fact that Ph.D degree of the petitioner is in accordance with the University Grants Commission Regulations, 2009, the same cannot be treated as valid certificate. Hence, the letter written by IIT, Delhi dated 02.03.2016 (Annexure P/16) cannot be of any avail to substantiate the fact that the Ph.D degree submitted by the petitioner to claim eligibility was in accordance with the University Grants Commission Regulations, 2009.

Learned counsel for the petitioner further argues that the petitioner was called for scrutiny of documents on 07.2.2018, on which date, the other candidates were also to be interviewed and in the present case, the petitioner was declared ineligible on the said date of scrutiny of the documents and was not interviewed by the respondents and the result was also declared on the same date, which has caused prejudice to the petitioner for the reason that after declaring the petitioner as ineligible on the date of scrutiny of documents, the petitioner had approached IIT, Delhi once again for certifying his Ph.D degree to be in accordance with University Grants Commission Regulations, 2009 and the petitioner was given another letter dated 05.03.2018 (Annexure P/22) according to which, the petitioner becomes eligible, keeping in view the issuance of the said letter.

The said letter dated 05.03.2018 (Annexure P/22) cannot come to the rescue of the petitioner for the reason that by the date when the said letter was issued by the IIT, Delhi, the selection process had already attained finality as the candidates who were found eligible, their result has already been declared, therefore, any certificate issued after the conclusion of the selection process, will not give right to the petitioner to claim eligibility.

The said question of law already stands covered by the decision of the Division Bench of this Court in **LPA No.1863-2018** titled as **Mukesh Kumar vs. State of Haryana and others** decided on 30.11.2018, wherein also with respect to the same advertisement relating to the award of Ph.D degree, a Division Bench held that if a certificate from the competent authority that the degree was in accordance with the University Grants Commission Regulations, 2009 was not submitted upto the date of interview, the said Ph.D degree cannot be taken into account as valid degree. Relevant portion of the judgment is as under:-

“This intra-court appeal, under Clause X of the Letters Patent, has been filed by the petitioner-appellant, challenging the judgment and order dated 24.7.2018, passed by the learned Single Judge, dismissing his writ petition.

The appellant-petitioner, who was a candidate for the post of Assistant Professor (College Cadre), Haryana, invoked the jurisdiction of this Court under Article 226 of the Constitution of India, seeking a direction to the respondents to add marks for Ph.D degree to his score in order to bring him within the zone of consideration.

It is an admitted fact that the interview letter issued to him, dated 6.12.2017, apart from other documents, also required him to produce the degree of Ph.D and to submit a certificate from the competent authority with respect to the fact that the said Ph.D.

degree was in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D Degree) Regulation 2009. Admittedly, the petitioner, at the time of interview, produced only the Ph.D degree and not the certificate, as he was required to do so. Accordingly, weightage of the marks for the Ph.D degree was not awarded to him. After the selection process was over, petitioner-appellant obtained the requisite certificate and produced it before the authorities and thereafter filed the instant writ petition, which has been dismissed by the learned Single Judge.

We do not find any infirmity in the view taken by the learned Single Judge in dismissing the writ petition in as much as the appellant petitioner cannot be permitted to draw advantage on the basis of some document, which he was under obligation to produce at the time of interview, but failed to do so. The documents required in the interview letter were to be produced at the time of interview itself, i.e. on 13.12.2017, and a certificate obtained by him on 5.1.2018 would not enure to his benefit, after everything, including the selection and appointment, was over. No illegality or error is reflected from the impugned judgment passed by the learned Single Judge, which may require interference.

The appeal is, thus, devoid of merit and accordingly stands dismissed.”

Hence, the certificate dated 05.03.2018 (Annexure P/22) submitted by the petitioner after the completion of selection process cannot come to the rescue of the petitioner.

Learned counsel for the petitioner further argues that as one seat has been reserved for the petitioner, the selection process cannot be termed as completed even as of now.

Order passed by this Court by way of interim measure of

keeping a seat reserved for a candidate does not mean that selection process

remains in operation till decision of the writ petition. The selection process comes to an end after the declaration of result by the recruiting agency and thereafter, process of appointment is initiated by the concerned department. It is the department which has been directed to keep one post vacant keeping in view the number of posts advertised. It has no relation with the recruitment/selection process of the recruiting agency. Therefore, contention of the petitioner that as one post was kept vacant by this Court by way of an interim order, hence even as of today, selection process continues, cannot be accepted and the same is accordingly rejected.

Learned counsel for the petitioner argues that in the present case, respondents had issued notice dated 18.1.2018 (Annexure P/14) by which list of the candidates was displayed, who failed to submit printed/hard copy of the online application form alongwith the required documents, which the candidates were required to fulfill. Learned counsel for the petitioner submits that once on 18.01.2018, the candidates were given 10 days time to fill the lacuna, the same opportunity should have been given to the petitioner as well.

The argument which is being raised by the learned counsel for the petitioner is not correct. After the candidates were asked to upload the documents and submit hard copy of the application form, certain candidates were found eligible and they were given an opportunity to raise objections qua the same. No candidate was given time to fulfill the lacuna and only the objections were asked by the Commission so to declare a candidate ineligible. That being so, no benefit of the said argument can be given to the petitioner as the same is factually incorrect.

Keeping in view the settled principle of law noticed hereinbefore in **Mukesh Kumar (supra)**, once the petitioner failed to

submit required certificate certifying that the Ph.D degree obtained by the petitioner was in consonance with the University Grants Commission Regulations, 2009 by the date of scrutiny/interview, the candidature of the petitioner was rightly rejected by the respondents, keeping in view the requirements of the advertisement.

Learned counsel for the petitioner submits that the petitioner had approached the IIT, Delhi for the grant of certificate that whether the Ph.D degree obtained by the petitioner is in consonance with the University Grants Commission Regulations, 2009 or not but as the IIT, Delhi refused to issue any such certificate, the petitioner can not be treated ineligible merely on the refusal of the said certificate by IIT, Delhi.

This question is between the petitioner and IIT, Delhi from where the petitioner obtained the Ph.D degree and the recruiting agency has no role to play qua the issuance of such certificate by the IIT, Delhi. The petitioner was well within his right to get his degree evaluated from University Grants Commission in case rules permits so as to obtain the said certificate.

Learned counsel for the petitioner submits that the judgment of the Division Bench of this Court in **Mukesh Kumar (Supra)** is *per incuriam* as the Division Bench has not noticed the findings of the Hon'ble Supreme Court of India in **Civil Appeal No.6506-2004** titled as **Dolly Chhanda vs. Chairman, JEE 2004(4) S.C.T. 546** according to which, the assertions of the petitioner that the claim of the petitioner is covered by the decision of the Hon'ble Supreme Court of India in **Civil Appeal No.6506-2004** titled as **Dolly Chhanda vs. Chairman JEE**.

This argument is misplaced as the judgment in Dolly Chhanda (supra) is not applicable in the facts and circumstances of the present case

for the reason that in *Dolly Chhanda (supra)*, the certificate issued by the competent authority was very much attached along with the application form but the same was incorrect on certain aspects, for which, the correction had already been applied by the candidate and the correct certificate was issued to the petitioner therein though, after the last date of submission of application form but before the second stage of interview. It was only under these circumstances, when the required certificate was produced along with application form, a view was taken by the Hon'ble Supreme Court in **Dolly Chhanda (supra)**, which view cannot be implemented or brought into operation in the facts and circumstances of the present case, hence the argument that judgment of Division Bench in **Mukesh Kumar (supra)** is per in-curiam, is rejected.

Keeping in view the facts and circumstances noticed hereinabove, no ground is made out to allow the prayer of the petitioner as raised in the present writ petition.

Dismissed.

December 14, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

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