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WPA 16211 of 2019

Waliul Alam

Vs.

University Grants Commissions & Ors.

with

WPA 22457 of 2019

Ainul Bari

Vs.

The State of West Bengal & Ors.

with

WPA 22461 of 2019

Sanarul Hoque

Vs.

State of West Bengal & Ors.

with

WPA 3772 of 2020

Karim Sk.

Vs.

The State of West Bengal & Ors.

Mr. Samim Ahamed

Mr. Arpa Maiti

... For the petitioner.

Mr. Pulak Ranjan Mondal

Ms. Bandana Mondal

Mr. Sunhranshu Panda

... For the College Service Commission.

Mr. Anil Kumar Gupta

... For UGC.

Let the affidavit-in-opposition filed on behalf of the University Grants Commission be taken on record.

In this batch of writ petitions, the petitioners challenge the selection process initiated by the College Service Commission following advertisement no.1/2018 for the posts of Assistant Professors. The petitioners submit that the selection process ought to have been

conducted in terms of “UGC Regulations on Minimum Qualifications for appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018” (in short, “Regulations of 2018”), while the same has been carried out in terms of the University Grants Commission (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and other Measures for the Maintenance of Standards in Higher Education) Regulations, 2010, as amended time to time (“Regulations of 2010”, in short).

The Regulations of 2018 came into being on and from July 18, 2018. It has been urged that the date of Advertisement 1/2018 was deliberately altered. By referring to page 47 of the writ petition, it has been submitted that the said document clearly suggests that the advertisement was “created” on July 31, 2018, but the same was antedated to July 16, 2018, to bring the selection process out of the purview of the Regulations of 2018. Therefore, the selection process is liable to be vitiated.

It has been further submitted by the learned advocate for the petitioners that under the Regulations of 2018, an aspirant for the post of Assistant Professor

is to be allotted 25 marks for his Ph.D. degree as opposed to 10 marks in terms of Regulations of 2010.

Mr. Samim Ahamed, learned advocate for the petitioners suggests that such manipulation of date amounts to practicing fraud on the statute interfering with the valuable right of the petitioners to be appointed to the post in question.

Mr. Mondal, learned advocate appearing for the College Service Commission, on the other hand, has drawn the attention of this Court to be eligibility clause contained in Advertisement No.1/2018, which is quoted below:

“Eligibility: The minimum eligibility conditions contained in this advertisement are governed by the provisions of the West Bengal Government Memorandum No. 727-Edn (CS)/8R-01/10 dated 26/06/2018. The Commission, however, can introduce additional parameters in order to select candidates of higher merit, as laid down in the above-mentioned Regulation. Therefore, mere possession of eligibility does not confer any right to an applicant to be selected or empanelled.”

Mr. Mondal submits that under the Regulations of 2018, 25 marks are allotted for a Ph.D. degree to

shortlist the candidates for the interview. In the ultimate selection through an interview, only 10 marks are awarded against the Ph.D. qualification. It has been, further, submitted by Mr. Mondal that under the Regulations of 2010 also only 10 marks are allocated for a Ph.D. qualification. Mr. Mondal urges that the Commission did not perform any shortlisting and allowed all eligible candidates to participate in the interview. Therefore, the petitioners have not been prejudiced in awarding marks for their Ph.D. qualifications.

Mr. Mondal suggests that the College Service Commission carries recruitment rules in terms of the Government order issued by the State. The relevant Government order explicitly stated that recruitment was to be carried out in terms of the University Grants Commission Regulation, 2010.

He submits that the “Advertisement 1 of 2018” clearly indicates that the selection was to be carried out in terms of West Bengal Memorandum No. 727-Edn (CS)/8R-01/10 dated 26/06/2018 which is, in fact, an adoption of Regulations of 2010.

In my view, the petitioners cannot sustain the challenge.

The date of commencement of the online application was 1st August 2018 and the last date of

submission of the application was 31st August 2018. Though before the first date of application, the Regulations of 2018 were made operative from July 18, 2018, the petitioners had no scope for confusion. They all knew that despite the Regulations of 2018 coming into force, the relevant recruitment process would still be in terms of the Regulations of 2010. The petitioners participated in the interview following the said advertisement. They were, however, not selected.

It also appears that the advertisement was published on 16th July 2018, though the petitioners suggest that the same was “created on July 31, 2018” to be uploaded on 1st August 2018. In the affidavit, the College Service Commission denied his allegation and pleaded that the advertisement was uploaded only on the same date, i.e., 16th July 2018.

The relevant panel of the selected candidates was published on 12th July 2019 and the writ petition was filed on August 14, 2019. It is, therefore clear that only after being declared as unsuccessful candidates in the selection process, the petitioners have approached the Court.

In that view of the matter, I am of the opinion that the petitioners, who consciously appeared in the selection process, aware of the applicable regulation, after being unsuccessful in the selection process,

cannot challenge the same. On that ground, the writ petitions cannot succeed.

The petitioners have also failed to demonstrate the prejudice in the allocation of marks for their Ph.D. degrees by following the Regulations of 2010. Even under the Regulations of 2018, only a maximum of 10 marks could be awarded to them for their Ph.D. degrees.

Accordingly, WPA 16211 of 2019, WPA 22457 of 2019, WPA 22461 of 2019, and WPA 3772 of 2020 are dismissed.

There will be no order as to costs.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)