



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.6692 OF 2023

Dr Pravina w/o Nilay Khobragade,
Aged about 50 years,
Occupation-Professor,
R/o 34-35, Mamta Layout
Behind South – West Convent,
Sonegaon, Nagpur

... Petitioner

Versus

1. Vice Chancellor,
Rashtrasant Tukdoji Maharaj Nagpur
University, Ravindranath Tagore Marg,
Nagpur-01
2. Rashtrasant Tukdoji Maharaj Nagpur
University, Ravindranath Tagore Marg,
Nagpur-01 Through its Registrar,
3. The Principal,
Ambedkar College of Law,
Civil Lines, Ravi Nagar, Nagpur
4. Dr Ravishankar Kantilal Mor,
Aged about 48 years, Occu. Professor,
Office at Ambekar College of Law,
Ravi Nagar, Nagpur

... Respondents

Shri G. N. Khanzode, Advocate for petitioner.
Shri S. S. Ghate, Advocate for respondent No.1.
Shri R. K. Maheshwari, Advocate for respondent Nos.2 and 3.
Shri B. G. Kulkarni, Advocate for respondent No.4.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
A. S. CHANDURKAR, J.**

DATE : 20th OCTOBER, 2023

P. C. :

Heard Shri G. M. Khanzode, learned counsel appearing for

the petitioner. Shri S. S. Ghate, learned counsel representing respondent No.1-Rashtrasant Tukdoji Maharaj Nagpur University, Shri R. K. Maheshwari, learned counsel for respondent Nos.2 and 3 and Shri B. G. Kulkarni, learned counsel for respondent No.4.

2. By instituting this petition under Article 226 of the Constitution of India, a challenge has been made to the order dated 21st September 2023 passed by the Registrar of the Rashtrasant Tukdoji Maharaj Nagpur University (hereinafter referred as the University) whereby additional charge of the post of Principal of Dr Babasabeb Ambedkar Law College has been given to the respondent No.4.

3. It has been argued by the learned counsel for the petitioner that the impugned order dated 23rd September 2023 is completely illegal for the reason that the petitioner had been directed to hold the additional charge of the post in question since 1st March, 2022, however, by means of the impugned order though she has been divested of the said charge as given to her however, principles of natural justice have been given a go-by. Submission further is that infact in the list of Associate Professors, the petitioner was admittedly senior to the respondent No.4 and thus for being given the additional charge of the post of Principal, she has to be treated

as senior to respondent No.4. Further submission is that the impugned order dated 23rd September 2023 has resulted in ignoring the petitioner for giving additional charge of the post of Principal of the College despite her being senior to the respondent No.4.

4. The prayers made in the writ petition have been vehemently opposed by the learned counsel for the University and the learned counsel representing respondent No.4 by submitting that in terms of the Rules relating to determination of seniority, the respondent No.4 is senior in the cadre of Associate Professor and as such, there is no illegality in the impugned order whereby additional charge of the post of Principal has been given to the respondent No.4. On the aforesaid submission, it has been urged by the learned counsel for the respondent No.4 and the learned counsel representing the University that the writ petition deserves to be dismissed at its threshold.

5. We have considered the submissions made by learned counsel representing the respective parties and have also perused the record available before us.

6. In terms of Government Resolution dated 15th March 2012,

additional charge of the post of Principal in a College has to be given to the seniormost teacher. As per the terms contained in the said Government Resolution, additional charge of the post of Principal in an institution has to be given to the seniormost teacher available, having eligibility to be appointed as Principal. The said Government Resolution also provides that additional charge shall be given only for a year and during this period, appropriate steps should be undertaken to fill the post of Principal on regular basis.

7. The question thus, which falls for our consideration in this writ petition is whether in terms of Government Resolution dated 15th March 2012, it is the petitioner or the respondent No.4 should be given the charge of the post of Principal. It is not in dispute that insofar as in the seniority in the cadre of Associate Professor is concerned, the petitioner was senior and accordingly she was given additional charge of the post of Principal when the vacancy occurred on retirement of regular Principal on 24th February, 2022. However, in the meantime both, the petitioner as well as the respondent No.4, became eligible for being considered for promotion to the post of Professor under Career Advancement Scheme (CAS) and accordingly the respondent No.4 was promoted to the post of Professor under CAS by office order dated 17th May, 2023. The said order of promotion of respondent No.4 dated 17th

May, 2023 clearly stipulates that the respondent No.4 shall stand promoted to the said post with effect from 19th August, 2022. Insofar as the petitioner is concerned, by the office order dated 22nd May 2023, she has also been promoted to the post of Professor under CAS. However, her date of promotion under CAS to the post of Professor is 11th January, 2023. Her promotion order dated 22nd May 2023 clearly indicates that the date of her promotion to the post of Professor is 11th January 2023. Thus, so far as cadre of 'Professor' is concerned, the petitioner stands promoted to the said post with effect from 11th January 2023 whereas the respondent No.4 stands promoted to the said post from 19th August, 2022.

8. The provisions relating to seniority amongst the teachers working in the University can be found in Clause 17 of Ordinance No.122 of the Nagpur University Teachers' Service & Conditions of Employment Ordinance, 1972 according to which every teacher shall rank for seniority in the grade according to the date of his commencement of service. Clause 17(a) of the said Ordinance reads thus :

" 17.(a) Every teacher shall rank for seniority in the grade according to the date of his commencement in service."

9. In tune with the recommendations made by the University Grants Commission vide its letter dated 21st February, 2002, an amendment was introduced in the Ordinance No.122 and after Clause 17 of the Main Ordinance No.122, Clause 17-A was added. The said Clause 17-A of the Main Ordinance No.122 reads as under:

"17-A i) The teachers promoted to the post of Reader or Professor under Career Advancement Scheme shall be included in the seniority list of Reader or Professor of the Department as the case may be, from the date of their promotion in the cadre of Reader or Professor.

ii) A common seniority list of the cadres of teachers appointed through the process of direct recruitment as well as teachers promoted through the Process of C.A.S. shall be maintained Department wise for both the cadres of Readers and Professors.

iii) The nomination of Head of the Department by rotation as per the provisions of Statute 55 from the cadre of Professor (if available) or from the cadre of Readers shall be made by operating common seniority list maintained as per clause (ii) above.

iv) The teachers promoted to cadre of reader or professor as the case may be through the process of Career Advancement Scheme shall be entitled to all other benefits accruable for the concerned cadre as stipulated in this ordinance or as per the directions of State Government issued from time to time. Their work load will be stipulated by the U.G.C. or State Government from time to time.

10. According to Clause 17-A as aforesaid quoted, teachers

promoted to the post of 'Professor' under Career Advancement Scheme shall be included in the seniority list in the cadre from the date of promotion in the said cadre. Clause 17-A further provides that a common seniority list shall be prepared in the cadres of teachers appointed through the process of direct recruitment as well as promoted through C.A.S., as the case may be, and such seniority list is to be maintained for both the cadres of Readers and Professors.

Sub clause (iv) of Clause 17-A of the Ordinance further provides that any teacher promoted to cadre of Reader or Professor, as the case may be, through the process of C.A.S. shall be entitled to all other benefits accruable for the concerned cadre as stipulated in the Ordinance which may be issued from time to time. Thus, on conjoint reading of Clause 17 and Clause 17-A of Ordinance No.122, it is clear that seniority of teachers working in Colleges is reckoned from the date of his/her promotion and there is no difference between Professors directly recruited and the Professors given promotion under CAS.

11. We may also notice that Clause 16.3 of the 'University Grants Commission Regulations On Minimum Qualifications For Appointment of Teachers And Other Academic Staff in Universities And Colleges And Measures For The Maintenance Of For

Appointment Of Teachers And Other Academic Staff In Universities And Colleges And Measures For the Maintenance Of Standards In Higher Education, 2018 (herein after referred to as UGC Regulations, 2018) clearly stipulates that inter-se seniority of a direct recruit is to be maintained with reference to the date of joining and for the teachers promoted under the CAS, with reference to the date of eligibility as indicated in the recommendations of the selection committee of the respective candidates. Clause 16.3 of UGC Regulations, 2018 reads as under :

"16.3 Inter-se seniority between the direct recruited and teachers promoted under CAS :

The inter-se of a direct recruit shall be determined with reference to the date of joining and for the teachers promoted under the CAS with reference to the date of eligibility as indicated in the recommendations of the selection committee of the respective candidates. The rules and regulations of the respective Central/State Government shall apply, for all other matters of seniority.

12. Thus, if we consider the facts of the instant case, which are not in dispute, in terms of the provisions of Clause 16.3 as fore quoted, seniority of a teacher promoted to the post of Professor under CAS is to be reckoned with reference to the date of eligibility. The date of eligibility/date of promotion has been indicated in the promotion order dated 17th May, 2023 and 22nd May 2023 issued in

respect of respondent No.4 and the petitioner respectively. As observed above, the date of promotion to the post of Professor as per promotion order of the petitioner is 11th January 2023 whereas the date of promotion mentioned in the promotion order of respondent No.4 to the post of Professor, dated 17th May 2023 is 19th August 2022. Thus, clearly, in terms of the date of promotion to the post of Professor, so far as inter-se seniority in the cadre of Professor is concerned, respondent No.4 is senior to the petitioner.

13. We have already observed above that in terms of provisions contained in Clause 17 and Clause 17-A of the Ordinance No.122 of UGC Regulations 2018, seniority of the teachers is to be reckoned and maintained cadre wise. Insofar as the argument that the petitioner was senior in the cadre of Associate Professor, in our considered opinion this fact will have no bearing insofar as inter-se seniority of these two teachers in the cadre of Professor is concerned. We, thus, have no hesitation to hold that respondent No.4 is senior to the petitioner in the cadre of Professor.

14. The Government Resolution dated 15th March 2012 provides that in case eligible teachers are available for appointment on promotion to the regular post of Principal, the seniormost available

teacher shall be given additional charge. It is not in dispute that the petitioner so also the respondent No.4 both are eligible for regular appointment to the post of Principal. Thus, keeping in view the provisions contained in Government Resolution dated 15th March, 2012, the respondent No.4 appears to have rightly been given additional charge of the post of Principal of the College concerned.

15. So far as submission made by the learned counsel for the petitioner that before passing the impugned order which has resulted in divesting the petitioner of the additional charge of the post of Principal she was not provided any opportunity of hearing is concerned, we are of the opinion that it is not a vested right of any teacher to be given additional charge and hence the principles of natural justice would not be attracted. Even if an opportunity to the petitioner was given, since in view of the findings recorded by us in the preceding paragraphs of this judgment, the respondent No.4 is clearly senior to the petitioner in the cadre of Professor, hence the opportunity of hearing to the petitioner would have been an exercise in futility.

16. For aforesaid reasons, we are unable to accept the submissions made by the learned counsel for the petitioner. In the

result, the writ petition fails, which is hereby dismissed.

17. However, before parting with this matter, we may observe that the Government Resolution dated 15th March, 2012 also stipulates that all steps should be taken to fill up the post of Principal on regular basis in the Institution. In this view we also direct the respondent-authorities to take appropriate steps to ensure that regular appointment to the post of Principal in the College in question is made at the earliest.

18. There will be no order as to costs.

(A. S. CHANDURKAR, J.)

(CHIEF JUSTICE)