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2023:PHHC:166548

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-8520-2019 (O&M)
DECIDED ON: JULY 28, 2023

1.

VAZIR SINGH NEHRA AND OTHERS
.....PETITIONERS
VERSUS
MAHARSHI DAYANAND UNIVERSITY, ROHTAK AND ANR.
.....RESPONDENTS

2.

CWP-18357-2020 (O&M)

PROF. KULDIP SINGH
.....PETITIONER
VERSUS
MAHARSHI DAYANAND UNIVERSITY, ROHTAK AND OTHERS
.....RESPONDENTS
AND

3.

CWP-14743-2013 (O&M)

DR. RANDHIR SINGH SANGWAN
.....PETITIONER
VERSUS
MAHARSHI DAYANAND UNIVERSITY, ROHTAK AND ANR.
.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Rajiv Atma Ram, Sr. Advocate with
Mr. Brijesh Khosla, Advocate
for the petitioners (in CWP-8520-2019)

Mr. Ashwani Bakshi, Advocate
for the petitioner (in CWP-18357-2020).

Mr. R.K. Malik, Sr. Advocate with
Mr. Sandeep Dhull, Advocate
for the petitioner (in CWP-14743-2013).

Mr. A.S. Virk, Advocate
for the respondent-University.

Mr. Ravindra Singh, Advocate for
Mr. Puneet Gupta, Advocate
for respondent No.2 (in CWP-14743-2013).

SANDEEP MOUDGIL, J

1. By this common order, this Court intends to dispose off all the three writ petitions as common question of law is involved in all the petitions.

2. To avoid repetition, the facts are being taken from CWP-8520-2019 titled as **“Vazir Singh Nehra and others vs. Masharshi Dayanand University, Rohtak and another”**.

3. The jurisdiction of this Court has been invoked for issuance of a writ in the nature of *Mandamus* directing the respondent-University to grant promotional grade of Professor to the petitioners namely Vazir Singh, Gulshan Lal Taneja, Rajeev Kumar, Prof. Kuldip Singh and Dr. Randhir Singh Sangwan w.e.f. 01.01.2009 i.e. the date they became eligible to be promoted as Professor after completion of 3 years of service as Associate Professor and for grant of promotional grade of Professor to the petitioner-Sanjiv Kumar w.e.f 02.11.2010 i.e. the date he completing three years of service as Associate Professor. Another prayer has been made for quashing of the impugned order/decision taken by the Executive Council in

its 229th meeting held on 05.08.2012 (Annexure P-7).

3. The petitioners are claiming their promotion under Carrer Advancement Scheme (CAS), promulgated by the University Grant Commission (UGC), to be given effect from 01.01.2009 and 02.11.2010. The petitioners was working as an Associate Professor under the respondent-University. Petitioners were appointed as Lecturer in the Maintained College of respondent University and subsequently they were promoted as Lecturer (Senior Scale), Lecturer (Selection Grade) and then Associate Professor, details of petitioners along-with their dates of joining/promotion and date of completion of three years as Associate Professor reads as under:-

Name of the Teacher	Department	Date of joining as Lecturer in the University	Cut-off date of promotion as Associate Professor	Date of completion of three years as Associate Professor
Dr. Vazir Singh	Commerce	08.07.1991	01.01.2006	01.01.2009
Dr. Gulshan Lal Taneja	Mathematics	18.10.1991	01.01.2006	01.01.2009
Dr. Sanjeev Kumar	Commerce	30.07.1986	01.01.2006	01.01.2009
Dr. Rajeev Kumar	Mathematics	02.11.1995	02.11.2007	02.11.2010
Prof Kuldip Singh	Commerce	08.07.1991	01.01.2006	01.01.2009
Dr. Randhir Singh Sangwan	Geography	04.12.1986	01.01.2006	01.01.2009

4. Learned counsel for the petitioners has contended that the respondent-University was established by the Legislature of State of Haryana Government vide Maharshi Dayanand University Act, 1975

(hereinafter referred to as Act of 1975) with an object to establish and incorporate a teaching-cum-affiliating University at Rohtak for the encouragement of Inter-disciplinary higher education and research with special emphasis on studies of Life Sciences and Environmental and Ecological Sciences. He further contends that the respondent-University has rejected the claim of the petitioners without citing any provision of law.

5. Learned counsel for the respondent-University has contended that the petitioners have failed to disclose that as per guidelines/regularization notified by the UGC, vide their notification dated 16.08.2010 and adopted by the Haryana Government/University, the Career Advancement Scheme (CAS) is not applicable to the Colleges, including University maintained College, for promotion to the post of Professor. He further contends that since the petitioners, before merger of their posts in the University Teaching Departments (UTD) in 2009 in the wake of taking over of University College by the State Government in 2006, were working for more than three years as Lecturers/Assistant Professors in the said College, they were eligible for promotion to the post of Associate Professors only. On the recommendations of a Committee, decided to consider them for promotion as Professor, by way of concession, provided they have served as Associate Professor in the UTD for three years from the date of merger i.e. 08.08.2009 for the reason that they were never selected and appointed in the UTD after following due process. It is submitted on behalf of counsel for the respondent-University that the question of treating teachers of a University maintained College at

par with the UTD in the matter of promotions is no longer *res integra*.

6. Heard learned counsel for the parties.

7. No other argument has been raised by either of the parties.

8. Section 2 (i) of the Maharshi Dayanand University Act, 1975 (hereinafter referred to as 'Act of 1975'), provides that **“Teachers of the University”** means Professors, Readers, Lecturers and such other persons as may be appointed for imparting instruction or conducting research in the University or in any college or institution maintained by the University and are designated as teachers by the ordinances. In view of Section 2(i) of the Act of 1975, the stand taken by the respondent-University that the petitioners are not the teachers of the University, is not sustainable in the years of law.

9. It would be relevant to reproduce the definition of **“College”** and **“Teachers of the University”**, which reads thus:-

2(a) “College” means a college maintained by, or admitted to the privileges of, the University under this Act.

2(i) “Teacher of the University” means professors, readers, lecturers and such other persons as may be appointed for imparting instruction or conducting research in the University or in any college or institution maintained by the University and are designated as teachers by the ordinances.

10. Therefore, any teacher whether he is teaching in the College maintained by respondent-University or in the University shall be considered as Teacher of the University, hence, fundamental right of equality guaranteed under Articles 14 and 16 of the Constitution of India, 1950 cannot be take away and petitioners are entitled to be treated equally

with the teachers of the University.

11. Furthermore, Act of 1975 do not create any distinction between University Teacher or the Teacher of the then University College, thus, as per the said Act Teachers of respondent-University and Teachers of College maintained by respondent-University are on same footing.

12. Petitioners worked in the University College Rohtak (the then Constituent College managed by the Maharshi Dayanand University Administration being part of the university itself), Petitioners namely Dr. Vazir Singh, Dr. Gulshan Lal Taneja, Dr. Sanjeev Kumar, Prof. Kuldip Singh and Dr. Randhir Singh Sangwan became Associate Professor on 01.01.2006 and Petitioner-Dr. Rajeev Kumar became Associate Professor on 02.11.2007. On 08.08.2009, the teachers of the then University College were merged into the University vide resolution no. 23 of the Executive Council of Maharshi Dayanand University, Rohtak, thus on 08.08.2009 Petitioners namely Dr. Vazir Singh, Dr. Gulshan Lal Taneja, Dr. Sanjeev Kumar, Prof. Kuldip Singh and Dr. Randhir Singh Sangwan completed more than 3 years of service as Associate Professor, In the case of Dr. Rajeev Kumar he completed his 3 years of service as Associate Professor on 02.11.2010. Accordingly, all the petitioners are entitled to be promoted as professor by counting the past service rendered by them in College maintained by respondent University.

13. Moreover, counting of past services for direct recruitment and promotion under CAS is very well defined under Clause 9 of Chapter 7 of the University Calendar Volume III, which reads as under:-

“Counting of Past Services for Direct Recruitment and

Promotion under CAS:-

Previous regular service, whether national or international, as Assistant Professor, Associate Professor or Professor or equivalent in a University, College, National Laboratories or other Scientific professional organizations such as the CSIR, ICAR, DRDO, UGC, ICSSR, ICHR, ICMR, DBT, etc., funded by State/Central Government, should be counted for direct recruitment and promotion under CAS of a teacher as Assistant Professor, Associate Professor, Professor or any other nomenclature these posts are described as per Appendix II-Table No. 11”

14. The opinion given by the committee that the petitioners have to complete three years of service as Associate Professor in the UTD is in grave violation of the afore-said Clause as well Regulation 10.1 of the University Grant Commission Regulations, 2010. While rejecting the clam of the petitioners, the respondent-University has observed that UGC regulations provides for counting of past service only in the case of direct recruitment of teachers but on perusal of UGC Regulation 2010, it is abundantly that it applies in the case of direct recruitment as well as promotion. Furthermore, the afore-said clause also provides counting of past service for promotion of teachers, thus, University is bound by its own stature to promote the petitioners to the post of Professors from the date they completed three years of service as Associate Professors.

15. Moreover, the persons juniors to the petitioners have been promoted as Professor by the respondent-University prior to the promotion of the petitioners only for the reasons that they have joined as teachers in University whereas, the petitioners have joined as teachers in the College maintained by respondent-University whereas there is no difference

between University teachers or teachers of University maintained college.

16. In view the discussions made hereinabove, all the petitions are allowed and respondent-University is directed to promote the petitioners to the post of Professor from the date they completed their three years of service as Associate Professor.

17. A copy of this order be placed on the files of the other connected petitions.

(SANDEEP MOUDGIL)
JUDGE

JULY 28, 2023
sham

1. *Whether speaking/ reasoned :* Yes / No
2. *Whether reportable :* Yes / No