

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.:204

Civil Writ Petition No.220 of 2014 (O&M)

Date of Decision: August 03, 2023

Dr. Dharamvir Singh and others

..... PETITIONER(S)

VERSUS

State of Haryana and others

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Ms. Veena Hooda, Advocate for the petitioners.

Mr. Sanjeev Kaushik, Addl. AG, Haryana.

Mr. Naman Jain, Advocate for respondent No.2/CBLU.

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Tribhuvan Dahiya, J. (Oral)

This petition has been filed seeking a writ of *certiorari* quashing the order, dated 16.08.2013, whereby the petitioners' legal notice for counting their past service has been rejected. Further, a writ of *mandamus* has been sought directing the respondents to consider and count petitioners' contractual service rendered in the University between 2004 upto 21.08.2007 for all purposes in view of the State government instructions, Annexure P-12, whereby the University Grants Commission (hereinafter referred to as 'the UGC') guidelines dated 30.06.2010 have been adopted.

2. Facts of the case in brief are, the second respondent/University issued advertisement, dated 07.08.2004, for filling-up various posts on contract basis by way of walk-in-interview. Pursuant thereto, the petitioners participated in the selection process and were

offered contractual appointments; they joined as such. Later, all the three petitioners were regularly appointed in the University on permanent posts after due selection, and they joined as Assistant Professor in the Departments of Physics, Chemistry and Mathematics respectively on 22.08.2007. Their claim for counting contractual service for career progression has been rejected.

3. Learned counsel for the petitioners contends that in terms of the UGC guidelines dated 30.06.2010, the petitioners are entitled to be given benefit of their contractual service for career progression, i.e., grant of senior scale alongwith all other benefits.

4. Learned counsel for the respondents, on the contrary, contend that since the petitioners' service was on contract, and the selection was by an ad hoc committee which cannot be counted. On the basis of record produced in Court, it has further been contended that the adhoc selection committee was headed by Registrar of the University, with two other teachers of the Department of Physics and Mathematics as members, and was not a regular selection committee. The emoluments payable to the petitioners were also not in regular scale, only a consolidated salary of ₹13,500 was paid to them. Therefore, their claim is not admissible in terms of the guidelines issued by the UGC.

5. The submissions made by learned counsel for the parties have been considered and the case file has been perused.

6. To consider the submissions, it is apposite to refer to the UGC guidelines dated 30.06.2010, which read as under:

19.0 Counting of Past Services For Direct Recruitment
and Promotion Under CAS.

19.1. 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-III-Table No. II provided that:

- a. The essential qualifications of the post held were not lower than the qualifications prescribed by the UGC for Assistant Professor, Associate Professor and Professor as the case may be.
- b. The post is/was in an equivalent grade or of the pre-revised scale of pay as the post of Assistant Professor (Lecturer) Associate Professor (Reader) and Professor.
- c. The candidate for direct recruitment has applied through proper channel only.
- d. The concerned Assistant Professor, Associate Professor, and Professor should

possess the same minimum qualifications as prescribed by the UGC for appointment to the post of Assistant Professor, Associate Professor, and Professor, as the case may be.

- e. The post was filled in accordance with the prescribed selection procedure as laid down in the Regulations of University/State Government/Central Government/Concerned Institutions, for such appointments.
- f. The previous appointment was not as guest lecturer for any duration, or an ad hoc or in a leave vacancy of less than one year duration. Ad hoc or temporary service of more than one year duration can be counted provided that:
 - i. the period of service was of more than one year duration.
 - ii. the incumbent was appointed on the recommendation of duly constituted Selection Committee; and
 - iii The incumbent was selected to the permanent post in continuation to the ad hoc or temporary service,

without any break.

- (g) No distinction should be made with reference to the nature of management of the institution where previous service was rendered (private/local body/Government), was considered for counting past services under this clause.

7. As per Statutes framed under the Chaudhary Devi Lal University, Sirsa, Act, 2003, the procedure for selection of teachers has been prescribed. The relevant Statutes 23 and 24, read as under:

23. (1) All appointments to teaching posts shall be made by the Executive Council on the recommendations of the Selection Committee.

(2) to (4)

XXXX XXXX XXXX

24. (1) A Selection Committee for any appointment of Professor/Reader/Lecturer specified below shall consist of - (i) The Vice-Chancellor;
(ii) The Dean of the Faculty;
(iii) The Chairperson of the Department concerned, if he is Professor;
(iv) The senior-most Professor in the Department except where Otherwise decided by the Vice-Chancellor;
(v) Three persons, not connected with the University, nominated by the Vice-Chancellor from a panel of names drawn up by the Academic Council on the basis of their

8. To claim benefit of past service for senior scale and selection grade under the Career Advancement Scheme (CAS), the petitioners have to comply with the conditions laid down in the UGC guidelines dated 30.06.2010. The previous service to be counted is required to be regular service in a University or College on a post in equivalent grade of pay, as that of an Assistant Professor. Besides, the posts should have been filled in accordance with the prescribed procedure of selection as laid down in the University regulations. Also, the appointment should not be as a guest Lecturer for any duration.

9. As apparent on record, the petitioners do not fulfill the aforesaid conditions. Firstly, their previous service was not a regular University service. They were appointed pursuant to a walk-in-interview for recruitment of lecturers on contract up to end of the academic session, or till regular appointments were made, whichever was earlier. Secondly, the appointment was on consolidated emoluments of ₹13,500 per month; whereas, the regular scale of pay for the post of Lecturer at the relevant time was ₹8,000-₹13,800. Therefore, the contractual appointment was not in a running grade equivalent to that of a Lecturer. Thirdly, the procedure of selection was also not as per the University Statutes. The petitioners were appointed pursuant to a notice issued only for walk-in-interviews. There was no proper advertisement inviting applications for the posts. Further, the selection Committee was not constituted as per the Statutes, as the same was headed by Registrar of the University alongwith two Professors of the Departments of Physics and Mathematics. Whereas, for regular appointments of Assistant Professor/Lecturer, the University Statutes require a selection committee headed by the Vice-Chancellor

with Dean of the Faculty, Chairperson of the Department concerned, senior most Professors and outside subject experts, etc. as members. Further, the recommendations of the selection committee are required to be approved by the Executive Council, which was also not done. Therefore, the petitioners’ contractual appointments were not in terms of the conditions laid under the UGC guidelines dated 30.06.2010, and they are not entitled to claim benefit of senior scale on that basis.

10. In view of the discussion, there is no merit in the petition.
11. Dismissed.
12. Pending miscellaneous application(s), if any, stand disposed of as having been rendered infructuous.

(Tribhuvan Dahiya)
Judge

August 03, 2023
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<u>Whether Speaking/Reasoned:</u>	<u>Yes/ No</u>
<u>Whether Reportable:</u>	<u>Yes/ No</u>