

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5827 of 2010

DR.SADANAND JHA S/O Late Tula Nand Jha R/O -At+P.O.Lakhnour, P.S.-
Lakhnour, Distt-Madhubani

... .. Petitioner/s

Versus

1. KAMESHWAR SINGH DARBHANGA SANSKRIT UNIVERSITY, Darbhanga through its Registrar.
2. The Vice - Chancellor , Kameshwar Singh Darbhanga Sanskrit University Darbhanga
3. The Registrar, Kameshwar Singh Darbhanga Sanskrit University Darbhanga
4. The Selection Committee For Selection Of Professor Of Vyakaran, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga through its Registrar
5. The Chancellor Universities Of Bihar Raj Bhawan, Patna
6. Dr. Umesh Sharma S/O Not Known At Present Professor , P.G.Department Of Kameshwar Singh Darbhanga Sanskrit University, Darbhanga
7. Dr. Bodh Kumar Jha, K.J. Somaiya Sanskrit Vidyapeeth, 2nd Floor, SIMSR Building, Vidya Vihar, Mumbai (Maharashtra)-400077
8. Dr. Ramkrishna Pandey ‘ Paramhansa”, Rastriya Sanskrit Sansthan (Deemed University), Ganga Nath Jha Campus, Chandrashekhar Azad Park, Allahabad- 211002

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Binodanand Mishra, Advocate
For the University	:	Mr. Deepak Kumar, Advocate
For the Respondent No.6:		Mr. Chitranjan Sinha, Sr. Advocate
		Mr. Arun Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
CAV JUDGMENT

Date : 17-05-2024

1. The petitioner has preferred this writ application for quashing the appointment of the respondent no. 6 namely, Dr. Umesh Sharma, who was appointed on the post of Professor in Vyakaran (Sanskrit Grammar) vide letter no. 1356 dated 02.03.2009. The petitioner has further prayed for a direction to the respondent-University to appoint him on the post of Univer-



sity Professor in Vyakaran.

2. The brief facts giving rise to this writ application is that that Kameshwar Singh Darbhanga Sanskrit University, Darbhanga (in short “ the University”) issued Advertisement No. 01 of 2008 for direct appointment on various teaching posts including the single post of Professor in Vyakaran. The advertisement laid down the eligibility criteria / essential qualification, which are as follows:-

“An eminent scholar with published work of high quality, actively engaged in research, with 10 years of experience in post graduate teaching, and / or experience in research at the University / National Level institutions, including experience of guiding research at Doctoral level in the relevant traditional subject.

Or

An outstanding scholar with established reputation who has made significant contribution to knowledge.

In exceptional cases, the teachers with 15 years of undergraduate teaching / research experience could also be considered.

3. The petitioner along with seven other candidates participated in the interview held by the University for appointment on the post of Professor in Vyakaran. The merit list of successful



candidates was published on 01.03.2009 having the name of the respondent no. 6 at the first place who obtained 87 marks followed by Dr. Bodh Kumar Jha with 86 marks and Dr. Ramkrishna Pandey Paramhansa with 84 marks. The petitioner was placed at fourth position in the merit list with 72 marks. The appointment of the respondent no. 6 was made after recommendation of the Selection Committee vide appointment letter dated 02.03.2009 and the respondent no. 6 submitted his joining on 05.03.2009.

4. The petitioner filed representations on various dates starting from 17.03.2009 and after 1 year filed the present writ application challenging the appointment of respondent no. 6.

5. Learned counsel for the petitioner argued that the respondent no. 6 does not possess essential eligibility conditions. Relying upon the terms of advertisement he submits that qualification prescribed by the advertisement can be categorized into three limbs as follows:-

“The First Limb

An eminent scholar with published work of high quality, actively engaged in research, with 10 years of experience in postgraduate teaching, and/or experience in research at the University / national level institutions, including experience of guiding research at Doctoral level in relevant traditional subject.

So the first limb has three parts

(i) An eminent scholar with published work of high quality,



(ii) 10 years of experience in postgraduate teaching, and/or experience in research at the University / national level institutions.

(iii) Experience of guiding research at Doctoral level in relevant traditional subject.

The Second Limb

An outstanding scholar with established reputation who has made significant contribution to knowledge.

The Third Limb

This is an exceptional clause, which says that

In exceptional cases, the teachers with 15 years of undergraduate teaching / research experience could also be considered.

6. The respondent no. 6 was not eligible to be appointed as University Professor and the petitioner was the only candidate who was eligible for the said appointment.

7. With regard to the qualification of the respondent no. 6, learned counsel submits that upon own showing in the counter affidavit of the University the respondent no. 6 had no P.G. teaching or research experience at the time of appointment. This was essential minimum eligibility requirement which the respondent no. 6 did not fulfill.

8. In the counter affidavit of the University there is no denial of the fact that respondent no. 6 was lacking in P.G. teaching experience of 10 years. However, it has been said that respondent no. 6 got experience in research at the University level including experience of guiding research at Doctoral level in the



relevant traditional subject. But apart from the bald statement there is no mention what kind of research was being done by the respondent no. 6 in any national or University level institution. No material has been brought on record to show that respondent no. 6 was doing research in any national level institution or the University.

9. In the counter affidavit of the respondent no. 6 also there is no denial of the fact that he lacks P.G. teaching experience. The respondent no. 6 in his counter affidavit has mentioned about his service as a Lecturer at an Under-Graduate level college affiliated under the respondent – University. He has made a bald statement regarding his research experience and has stated that he was doing research in Sanskrit for a long time and also have experience of guiding research at Doctoral level in Sanskrit subject from the same date. Neither any specific date has been given nor any description of what research was being done is mentioned. He has also not brought on record any material to show that he was doing research at the University or national level institution. In his Bio data, the respondent no. 6 was shown to be the Supervisor / Guide of one research scholar namely Sudhir Kumar Chaudhary before the last date of submission of application. Guiding a research scholar for Ph.D De-



gree is one thing and doing research independently is another. One cannot be substituted for the other and it cannot be used interchangeably.

10. The respondent no. 6 claims to be an outstanding scholar with established reputation and has made significant contribution in the field of Sanskrit. So far the question of being an outstanding scholar is concerned, it is submitted that the issue has been considered by the Hon'ble Calcutta High Court in the case of Dr. Basabi Bhattacharya vs Jadavpur University & Ors. reported in (2004) 3 CALLT 301 HC. In the said case in response to the direction of the Hon'ble Court the U.G.C. filed an affidavit to clarify as to who may be regarded as outstanding scholar. According to the U.G.C., "an outstanding scholar is one who has established himself or herself (and is recognized and acclaimed by reputation) as a scholar of repute both at national and international levels by virtue of his / her exceptional contribution both in teaching and research published in peer- referred journals of national and international repute. As such, the respondent no. 6 does not at all fulfill the criteria required to be called an outstanding scholar as per the U.G.C. norm for the following reasons:-

(i) Column No. 22 of Annexure - B (merit list) filed by the University shows that experience of teaching and research work is blank.



(ii) In Column No. 24 of Annexure - B it is shown that the respondent no. 6 has successfully guided one person for Doctoral research.

(iii) most of the Doctoral research guidance as claimed by the respondent no. 6 is after the date of submission of application form or rather after the date of interview.

(iv) As per the Black's Law Dictionary (9th Edition), "Journal" is defined as " A Periodical or Magazine, esp. one published for a scholarly or professional group"

(v) The published research article as claimed by the respondent no. 6 are as follows:

(a) Name of Journal- ABHA, Article- Sahitya ka Swaroop, having year of publication- 2003;

(b) Name of Journal- Vidyotama, Article- Trimuni Vyakarana Nasyatamatyam, year of publication-2008;

(c) Name of Journal- Vidyotama, Article- Harinamamrita Vyakarne Bhagavad Bhakti Charcha, year of publication -2008 (claimed)

(d) Name of Journal- Sanskrit Sanjivini, Article – Sanskrit Bhasa Aur Bhartiya Sanskrit, year of publication – 2008

11. "ABHA" is a Hindi Pamphlet which can not be considered as a research Journal and the article is not related with Sanskrit Vyakaran and more so even the article is not a full article but only a part of an article and the remaining part was yet to be published. So the publication can not be considered as a research journal nor marks can be given on the basis of part published and remaining to be published in future.

12. The second article was published in the very first issue of the journal "Vidyotama", a publication of the University Department of Sanskrit, B.R.A. Bihar University, Muzaffarpur.



No Journal in its very first issue can be called a standard referred journal.

13. The third article was published in the second issue of the journal “Vidyotama”. It has been claimed by the respondent no. 6 that the publication was of the year 2008, however, from perusal of the journal it is clear that publication is not in any case earlier than 03.02.2009 as 03.02.2009 is the date of congratulatory letter published in the journal wishing its success written by the then Vice Chancellor of B.R.A. Bihar University, Muzaffarpur. Therefore, the publication is after the last date of submission of application as per the advertisement.

14. The fourth article was published in a souvenir by the Sanskrit Shiksha Board. A souvenir cannot by any stretch of imagination be called a standard referred Journal. The Hindi essay published in the souvenir is regarding relationship between Sanskrit language and Indian Culture. It cannot be said to be in the subject concerned i.e. regarding Sanskrit Vyakaran / Grammar. It is also noteworthy that the date of publication is after the date of submission of application form by the respondent no. 6. The date of submission of application form by the respondent no. 6 is 21.12.2008.

15. In any view of the matter the respondent no. 6 could



not have been awarded 09 marks for research article. Marks cannot be given for essay published in pamphlet or part published article. Neither, marks can be given for Manuscript of an article which is yet to be published. The position is fairly well settled that when a set of eligibility qualifications are prescribed then in absence of any cut off date the prescribed qualification for the post would be at the time of submission of application.

16. It is further submitted that as per the University own standard none of the respondent no. 6's article find place in the compilation of published research article of the Department of Vyakaran, where the respondent no. 6 is himself a teacher.

17. On the occasion of completion of thirty seven years of establishment of P.G. Department of Vyakaran, the respondent-University published a souvenir. The booklet / souvenir named Vyakaran Patlodhyanam published in 2012 by the University, Department of Vyakaran contains the list of research article of all its teachers, students, Department Head, Researchers etc. from 1974 onward. In the booklet, compilation has also been done regarding research articles published by the Department's teachers as well as published books authored or edited by the Department's teachers.

18. Regarding the eligibility criteria of an outstanding



scholar with established reputation with significant contribution to knowledge, it is submitted that as per the judgment of the Supreme Court in G.N. Nayak case reported in (2002)2SCC 712 for a candidate to be qualified under the second limb under the criteria of an outstanding scholar with established reputation, apart from a brilliant academic record and having an established standing, the candidate must have been responsible for original research which had added to the knowledge of the particular subject not in small measure but significantly.

19. Column No. 25 of Annexure – B (merit panel) is regarding significant contribution to knowledge. In the said column as against the petitioner's name it is mentioned that he has enclosed three such contributions and against the name of Dr. Bodh Kumar Jha it is mentioned that he has 25 such contributions but against the the name of respondent no. 6 the Selection Committee has only mentioned "as enclosed".

20. Although it is for the Expert Body to judge whether a candidate is an outstanding scholar, but material before the Selection Committee does not reflect any such exceptional or outstanding scholar with significant contribution which could make the respondent no. 6 eligible to become Professor without having required minimum number of teaching / research expe-



rience.

21. The petitioner was given step motherly treatment and arbitrarily his case was not considered. The petitioner has admittedly not only twelve research articles publication but he has also enclosed three documents / books regarding his significant contribution to knowledge. In fact two of his books enclosed with the application form are prescribed books in the courses of study of Shastri (Hons.) in the respondent University and are taught there.

22. The Vice - Chancellor cum Chairman of the Selection Committee was biased is clearly visible by his conduct in illegal deputation of the respondent no. 6. There are other instances of biasness even after his appointment to the present post such as respondent no. 6 was made Proctor of the University within a few months after his appointment to the post of Professor in which the Hon'ble Chancellor had to intervene and he was reverted back to the post of Professor with immediate effect.

23. It has been submitted that a person whose application should have been thrown at the threshold for not being eligible for consideration has not only been invited to appear in the interview but has also been awarded marks for the publication which was non-existent so that he could be considered into the



zone of first limb of eligibility and then considered him to be an outstanding scholar as per the second limb with NIL contribution. This is nothing but abuse of the power and manifestation of biasness. There is patent abuse of power, mala fide and biasness by the Selection Committee in the appointment of the respondent no. 6.

24. The position in law seems to be well settled that any person who is ineligible to be appointed on account of not possessing requisite qualification does not have any right to be appointed much less continuance in service. The initial appointment of ineligible person is bad and void an ab- initio. The same is a nullity and no legal right accrues in favour of such employee who is appointed dehors the provision of law. If an ineligible candidate is appointed and permitted to remain in service, then the entire exercise of conducting a regular selection process becomes futile. Permitting ineligible candidate to remain in service on sympathetic ground is impermissible in law. Learned counsel has placed reliance on the following judgments:-

25. AIR 2008 SC 1817 Pramod Kumar vs U.P. Secondary Education Service, Paragraph Nos. 16-17, 19; 2011AIR SCW1332 State of Orissa & Anr. Vs Mamta Mohanty, para-



graph nos. 20-22 & AIR 2012 SC 3281 State of Gujarat & Ors.
vs Arvind Kumar Tiwari paragraph nos. – 8 , 10, 11.

26. On the other hand, learned senior counsel appearing for the respondent no. 6 argued that there is unexplained delay in filing the present writ application. Advertisement No. 1 of 2008 was published by the University for appointment on one post of Professor in the Department of Vyakaran. The petitioner and the private respondents applied for the post. The schedule of interview was published vide press notice dated 21.02.2009. The interview was held from 26.02.2009 onward in which the petitioner as well as private respondents participated. The merit list of successful candidates was prepared and published on 01.03.2009. The appointment letter to the respondent no. 6 was issued on 02.03.2009. The order of confirmation of services of the respondent no. 6 was issued by the University on 31.03.2010 confirming the services of the respondent no. 6 w.e.f. from the date of appointment. The confirmation of services of the respondent no. 6 was done after verification of all the necessary testimonials. The petitioner allowed the private respondent no. 6 to take over as the post of Professor and function as such without any demur. The petitioner thus allowed the matter to settle and then the present writ petition has been filed challenging the se-



lection process after more than 1 year 2 months of the completion of selection process just in order to harass the private respondent no. 6 with oblique motive.

27. The writ petition has been filed after expiry of the validity of the merit panel. As per Article 3 of the Statute the validity of the panel is one year and admittedly the present writ application has been filed after expiry of the validity of the panel.

28. He further argued that the Selection Committee recommended the name of two persons including the respondent no. 6. The writ petitioner is at fourth place in the merit list as prepared by the Selection Committee of the University. The merit list or the recommendation of the Selection Committee has not been challenged by the writ petitioner.

29. The writ petitioner after being unsuccessful in getting appointment on the post of Professor has filed the present writ application after much delay, challenging the appointment of the respondent no. 6 on hyper technical grounds. Insofar as contention of the petitioner to the extent that respondent no. 6 does not possess the eligibility criteria for appointment on the post of Professor as per the advertisement, it has been submitted that as per the later part of the first limb of the eligibility criteria, starting from AND / OR, a candidate having experience in research



at the University / National level Institutions, including experience of guiding research at Doctoral and in relevant traditional subject, respondent no. 6 was eligible for being considered for appointment on the post of Professor.

30. The respondent no. 6 had an experience of eighteen years of teaching in Under Graduate (UG) level and has undergone research at the University as after full fledged research work in the relevant subject he has been awarded the degree of PhD from the same University i.e. Kameshwar Singh Darbhanga Sanskrit University in the year 1993 itself and similarly the respondent no. 6 was having the experience of guiding research at Doctoral level as altogether four research scholars were undergoing research work under the supervision of respondent no. 6 and as such the respondent no. 6 was having the experience of guiding research. It would be essential to clarify here that though four candidates were doing research work under the respondent no. 6 out of them one had already been awarded the degree of Ph.D. on 25.06.2007 itself and the other research scholar had been awarded the degree of Ph.D. on 25.02.2009 itself i.e. before the date of interview and the others were undergoing research work under the supervision of respondent no. 6 . This fact would be evident from column no. 17 of



the application form submitted by respondent no. 6.

31. In view of the aforesaid the contention of the petitioner that respondent no. 6 does not possess the eligibility criteria for appointment as per the advertisement is baseless and has no legs to stand rather the fact is that the respondent no. 6 possessed the eligibility criteria and the respondent / University finding the respondent no. 6 to be the most suitable person as per the merit list has issued appointment letter in his favour.

32. Respondent no. 1 to 4 i.e. University in its counter affidavit has specifically taken the stand that the respondent no. 6 was found eligible for being appointed to the post in question and on scrutiny, the duly constituted Selection Committee found him to be the most suitable candidate as he got an experience in research at the University level including experience of guiding research at the Doctoral level in the relevant traditional subject. Apart from that the respondent no. 6 has made a significant contribution to the knowledge through the research work and creations, published in different literature / Magazine from time to time.

33. The petitioner has obtained 72 marks and has been placed at fourth position in the merit list and the respondent no. 6 has obtained 87 marks and has been placed at first position in



the merit list. So far the claim of the writ petitioner that he was the only eligible person for consideration of appointment, the same is not correct. The University in its counter affidavit has stated that Selection Committee has not found the writ petitioner to be suitable for the said post and rather he has been placed at fourth position in the merit list. The respondent no. 6 has mentioned in his counter affidavit and has explained that writ petitioner has no legal teaching experience under the meaning of the Act and the Statutes. The petitioner has given his voluntary service for which he has been paid fixed honorarium by the employer – Rashtriya Sanskrit Sansthan. The service of the petitioner has neither been concurred nor he has been made an employee of the Sansthan.

34. Insofar the contention of the petitioner regarding the award of marks to the respondent no. 6 related to publication of Articles in the Journal it has been submitted that respondent no. 6 has given the reference of five publications of Articles in the Journal in his application form.

35. The publication of articles in the referred Journal was in accordance with the relevant provisions of the statute. The Selection Committee has given marks only on three journals out of those 5 journals and the journals which were up to mark as



per the statutes, the marks have been awarded by the selection committee for three of the journals (i.e. nine marks). The marks have not been awarded for all five journals. The Selection Committee being the expert of the same would be the appropriate and competent authority to decide with regard to the authenticity and genuineness of the said publication work and the writ petitioner should not question award of marks to the respondent no. 6 on those journals. The objection as being raised by the petitioner by referring the original book “Vidyottama” that the journal published in the year 2008 has a reference of Shubh Kamna Sandesh of the Vice Chancellor of Babasaheb Bhimrao Ambedkar Bihar University dated 03.02.2009, it was the second publication of the same journal in the subsequent year and therefore only the journal originally published in the year 2008 when subsequently published later on has enclosed such Shubhkamna Sandesh of the Vice Chancellor dated 03.02.2009.

36. The respondent no. 6 has been awarded marks for only those publications which were published as on date of advertisement / interview and the said publication was found to be satisfactory and therefore marks were awarded to the respondent no. 6 by the Selection Committee. The writ petitioner has also been awarded marks for almost similar and identical publication in



the magazine.

37. It has further been submitted that in the aforesaid journals as mentioned in column no. 15 of the application form of the respondent no. 6, different articles were published by different persons. The articles as published in the aforesaid journals were also considered for appointment on the post of Principal and they were also awarded similar marks as to that of the respondent no. 6. The marks were awarded to those persons and they were considered for appointment and their appointments were made on the post of Principal pursuant to the same advertisement under reference. The appointment on the post of Principal was also under challenge before this Hon'ble Court on the same ground i.e. with regard to constitution of Selection Committee, award of marks in publication of Article in journal, eligibility of the appointed person and other similar grounds.

38. The Hon'ble Division Bench of this Court after due adjudication of the entire issue vide order dated 19.10.2023 passed in L.P.A. No. 1376 of 2019 and analogous cases held the appointment of Principal to be proper. The Division Bench also held that the Selection Committee as constituted was in accordance with law.

39. The writ petitioner participated in the selection



process and after becoming unsuccessful accepted the said decision and all of a sudden after more than one year of the completion of selection process, the present writ application has been filed.

40. The petitioner is ineligible for appointment on the post of Professor as the petitioner is not a teacher. He is a worker for propagating Sanskrit education and not a teacher / Lecturer in reference to the meaning of the U.G.C. The petitioner has no legal teaching experience as he was engaged with Rashtriya Sanskrit Sansthan, as such, the writ petition is not maintainable on the ground of non eligibility of the writ petitioner for appointment on the post of Professor and this Court may not issue a futile writ. Further more in any event the petitioner is going to attain the age of superannuation in December, 2025.

41. The respondent no. 6 after his joining as Professor on 05.03.2009 has acquired the experience of Post Graduate Teaching for more than 15 years and has been awarded the best teacher award by the University on 05.09.2022.

42. Learned counsel relies upon the judgment on the proposition that if the required teaching experience has been obtained with a flux of time, the appointment can not be held to be illegal on the ground that the candidate was not having teaching



experience at the time of appointment. The judgments are:-
2001(3) SCC 328; 2004(3) PLJR 674; 1979(1) SCC 268 & 1995
PLJR 837.

43. The lien of the respondent no. 6 as a Lecturer in the Department of Vyakaran in Sri Vasudev Sanskrit College, Akbarpur, Arwal, Patna has already expired on 04.03.2014. The lien of the services of the petitioner was initially given with effect from 05.03.2009 for a period of two years which was subsequently extended by the Syndicate of the University for a period of three years from 05.03.2011 i.e. till 05.03.2014. If the services of the respondent no. 6 would be interfered at this stage, it would amount to dismissal from service and he will be on road. At this juncture, the appointment of the respondent no. 6 may not be interfered with. In support of his submissions he relies upon (2009) 1 SCC 768 and 2002(4) PLJR 601. The respondent no. 6 is going to superannuate in February, 2028 on completion of sixty five years of age.

44. Learned counsel for the University argued that the respondent no. 6 was found eligible for being appointed to the post in question and on scrutiny the duly constituted Selection Committee found him to be the most suitable candidate as he got an experience in research at the University level including



experience of guiding research at the Doctoral level in the relevant traditional subject. The Selection Committee was constituted in accordance with the statutory provision. The Vice Chancellor had nominated the name of three experts from the panel duly approved by the Academic Council. The entire selection process was conducted in a transparent manner and with all fairness also. It is well settled that having participated in the same selection process and claiming appointment there, the petitioner has no legal ground to challenge the mode / method of the Selection Committee.

45. I have heard learned counsel for the parties and have gone through the relevant materials.

46. Upon close look of the eligibility criteria for the post of Professor as per advertisement it appears that essential qualification required for appointment are in three parts. The first part of the essential qualification is relevant for the purpose of deciding this case. The eligibility criteria relevant for this case is:-

“An eminent scholar with published work of high quality, actively engaged in research, with 10 years of experience in post graduate teaching, and / or experience in research at the University / National Level Institutions including experience of guiding research at Doctoral level in the relevant traditional subject

Or



An outstanding scholar with established reputation who has made a significant contribution to knowledge.

In exceptional cases, the teachers with 15 years of undergraduate teaching / research experience could also be considered”

47. The respondent no. 6 (appointee) claims that he holds the essential qualification prescribed in the second part of the first limb of the advertisement. For the purpose of reference the second part of first limb of the advertisement is being quoted hereinbelow:-

“..... and / or experience in research at the University / National Level Institutions, including experience of guiding research at Doctoral level in the relevant traditional subject.”

48. The second part of the eligibility criteria prescribes experience in research at the University / National level institutions, including experience of guiding research at Doctoral level in the relevant traditional subject.

49. The criteria “experience in research at the University / National level Institutions” indicates that the candidate should have a background in conducting research within higher education institutions or significant national research bodies.

50. This is the broad category of experience that is being sought. It means that the candidate should have conducted research within Universities or significant national research organizations. It suggests a level of involvement in academic



inquiry that contributes to the field of knowledge at a high level. The expression “including” is used to specify that in addition to general research experience, the candidate must also have experience in supervising / guiding Ph.D. students. This involves overseeing their research projects, providing guidance, and contributing to their scholarly development within the specific traditional subject area.

51. In academic contexts, “including” often serves to add emphasis to a particular aspect of a broader category. It does not limit the experience to only what follows the term but ensures that this specific type of experience is part of the over all qualifications.

52. The second part of eligibility criteria holds significance of having mentored / guiding Doctoral candidates, which is a critical component of academic leadership and expertise in the field.

53. The use of “including” ensures that the experience of guiding Doctoral research is recognized as an integral part of the candidate’s professional profile. In this case it underscores the importance of having guided Doctoral research which is a key aspect of essential qualification.

54. In the application form submitted on 08.12.2008 the



respondent no. 6 has mentioned the name of four candidates whom he guided / mentored in Doctoral research.

55. As discussed hereinabove the importance of having guided Doctoral research is a key aspect of essential qualification and does not limit experience but ensures that this type of experience is an integral part of the over all qualification. The University / Selection Committee considered the essential qualification of respondent no. 6 on the basis of the eligibility criteria as prescribed in the 2nd part of the first limb of the advertisement. The stand of the University is that the respondent no. 6 got an experience in research at the University level including the experience of guiding research at the Doctoral level in the relevant traditional subject. The *inter se* merit of all the candidates were assessed by the Selection Committee and marks were awarded in different heads including publication of research work.

56. The contention of the petitioner is that publication of research work of the respondent no. 6 was not in a standard referred journal / peer-referred journal. Accordingly, award of nine marks under this head by the Selection Committee to the respondent no. 6 was not proper.

57. The stand of the respondent no. 6 is that the Articles



published in the aforesaid journals were also considered in the appointment on the post of Principal and the candidates were awarded similar marks as to that of respondent no. 6. The appointments were made pursuant to the same advertisement under reference. The appointment on the post of Principal was also under challenge before this court on the ground of improper constitution of Selection Committee, award of marks for publication of articles in journal, eligibility of the appointed candidates and other similar grounds. The Division Bench of this court after due consideration of entire issues held the appointment of Principal as proper.

58. The Selection Committee being the expert body to decide with regard to the authenticity and genuineness of publication of research work, this Court can not question the wisdom of the Selection Committee and upset the opinion of the experts particularly when the appointment was to be made in relevant traditional subject Sanskrit Vyakaran.

59. Assuming that respondent no. 6 was not fulfilling the second part of the first limb of the eligibility criteria completely but the respondent no. 6 has acquired about 14/15 years of experience of Post Graduate Teaching after joining as professor on 05.03.2009 which means that the required teaching experience



has been obtained with efflux of time.

60. Another aspect which requires attention is that petitioner was not the next candidate after the respondent no. 6 in the merit panel but was placed at serial no. 4. If appointment of the respondent no. 6 is interfered with by this Court, no direction can be issued to the University for appointment of the petitioner for the reason that validity of the panel as per the Statute was for one year and the petitioner was not placed at serial no. 2 in the merit panel. In any case, the petitioner is going to attain the age of superannuation in the next year i.e. December, 2025. The respondent no. 6 is also in the fag end of his service career and shall be retiring after four years in February, 2028. The respondent no. 6 has been engaged in the Post Graduate Teaching for about 15 years and has also been given the best teacher award, as such, at this stage, if his appointment is cancelled / interfered with on the ground of his ineligibility, the University as well as the students shall suffer at large.

61. The respondent no. 6 was appointed from the merit panel prepared by the Selection Committee having been placed at serial no. 1 in the merit panel and acquired rich experience of 15 years of teaching at Post Graduate level as Professor in relevant traditional subject (Vyakaran). Therefore, upsetting / dis-



turbing the appointment of the respondent no. 6 on the ground of lack of eligibility criteria shall not be in public interest or in the interest of the students.

62. It is settled law that scope of judicial review in the matters of appointment and selection is limited. The decision of the Selection Committee can be interfered with only on the grounds of illegality or patent irregularity in the constitution of the Selection Committee.

63. This Court after going through the record produced by the University vide its order no. 17 dated 15.05.2013 has noted that there is nothing fishy in the constitution of the Selection Committee. No *mala fide* has been alleged by the petitioner against the Members of the Selection Committee.

64. The Hon'ble Supreme Court in the judgment reported in (2010) 8 SCC 372 BASAVIAH (DR.) *versus* DR. H.L. RAMESH & OTHERS has reiterated and reaffirmed the legal position that in the academic matters, the courts have a very limited role particularly when no *mala fides* have been alleged against the experts constituting the Selection Committee. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts. As a matter of principle, the courts should never make an endeavour to



sit in appeal over the decisions of the experts. The courts must realise and appreciate its constraints and limitations in academic matters.

65. The award of marks under different parameters by the Selection Committee cannot be the subject matter of judicial review. The petitioner has not made an allegation of *mala fide*, favouritism and nepotism against the Members of the Selection Committee / interview board. This Court can not sit in appeal over the marks awarded by the interview board for research publication.

66. In the backdrop of the above discussion, I come to the conclusion that the respondent no. 6 substantially fulfilled the eligibility criteria and the Selection Committee which was properly constituted assessed the *inter se* merit of all the candidates and found the respondent no. 6 suitable for the post. The respondent no. 6 has continued on the post for the last 15 years, as such, this Court is not inclined to unsettle the settled position on the plea of the petitioner that the respondent no. 6 was not fulfilling the eligibility criteria. The respondent no. 6 was working in another college namely Sri Vasudev Sanskrit College, Akbarpur, Arwal, Patna and his lien in the previous employment has now been expired. If the services of the respondent no. 6 is



interfered with at this stage the students studying the traditional subject in the University will be the ultimate sufferer.

67. Considering the entire issue in totality, the appointment / selection of the respondent no. 6 is not required to be interfered with or set aside in exercise of extraordinary writ jurisdiction of this Court.

68. In the result, this writ application is dismissed.

69. There shall be no order as to costs.

(Anil Kumar Sinha, J)

praful/-AFR

AFR/NAFR	AFR
CAV DATE	20-03-2024
Uploading Date	17-05-2024
Transmission Date	NA

