

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

219

**CWP No.18272 of 2018
Date of Decision :24.1.2024**

*Dr. Sakshi Khurana**..... Petitioner**versus**Lala Lajpat Rai University of Veterinary and Animal Sciences, Hisar and
others**..... Respondents***CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. Pawan Kumar, Senior Advocate with
Ms. Vidushi Kumar, Advocate, for the petitioner

Mr. D.S. Rawat, Advocate, for respondents no.1 and 2

Mr. Gaurav Mohunta, Advocate and
Mr. Gaurav Gogna, Advocate, for respondents no.3 and 5

Mr. Vijay Pal, Advocate, for respondent no.4

TRIBHUVAN DAHIYA J. (ORAL):

The petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the selection/merit list of Assistant Professor in Dairy Technology prepared by the respondent-University vide proceedings dated 31.7.2017, Annexure P-32, and the consequent appointment letters dated 1.8.2017, Annexures P-36, P-38 and P-40, issued to private respondents no.3 to 5. Further, a writ of *mandamus* has been sought directing the University to revise the selection/merit list, and appoint the petitioner on the post. At the outset, learned senior counsel contends that the petitioner withdraws her challenge to the appointment of fifth respondent.

2. The facts of the case in brief are, the University vide advertisement no.1 of 2016, advertised, among others, four posts of Assistant Professor (Dairy Technology), of which one each was reserved for Scheduled Caste (SC) and Persons with Disability (PWD) categories.

2.1. The petitioner, who belongs to general category and claims to have outstanding academic and professional record, applied for the post. She has passed Masters of Science (Food Technology) in first division, in May 2009, testimonials are appended as Annexure P-3 (colly); and National Eligibility Test (NET) in 2010 in the major/broad discipline of Food Science and Technology, Annexure P-4. She was awarded Senior Research Fellowship (PGS) by the Indian Council of Agricultural Research, Annexure P-5, and also earned Ph.D. degree in the discipline of Dairy Technology from National Dairy Research Institute (Deemed University), Karnal, Annexure P-6 (colly). Besides, she has teaching experience of over two years on the post of Assistant Professor from different colleges from 1.8.2012 to 20.5.2016, certificates are appended as Annexure P-12 (colly).

2.2. Her application was duly considered and, finding her eligible for the post, was interviewed by the Selection Committee. However, she could not be selected being lower in merit as compared to the private respondents.

2.3. It is claimed that the petitioner could not be selected only because the selection committee/second respondent wrongly did not give her due marks as per the criteria under three heads - the Master's degree, experience and publications in the relevant field; under the first two heads she was given zero marks, and only one mark under the third head.

2.4. It is further claimed that the wrong committed by the selection committee is apparent from the fact that in an earlier selection for the post of Assistant Professor (Dairy Chemistry) in the University, the then selection committee in its meeting, dated 30.5.2016, Annexure P-29, gave more marks to the petitioner under these heads for the same qualifications and experience, i.e., fifteen point ninety six marks for her Master's degree, two marks each for the experience and publications in the relevant field; criteria for both the selections were the same. The marks awarded in the instant selection, therefore, could not have been lower. This is arbitrary, and contrary to the University's own assessment in the earlier selection.

2.5. Still further, it has been claimed that the private respondents have been wrongly given marks based upon the criteria leading to their appointment, though they do not have the requisite qualifications.

2.6. With these facts, the instant petition was filed seeking award of marks to the petitioner as per the criteria, and setting aside the selection of private respondents no.3 and 4.

3. Learned senior counsel for the petitioner has contended that the petitioner was not given marks as per the criteria despite being entitled to on the basis of her Master's degree, experience and publications in the relevant field. Being M.Sc. in Food Technology, she fulfills the requisite qualifications. It is also contended that the petitioner has wrongly been given zero marks for experience, though she has more than three years and four months experience, which entitles her to three marks. She has four publications in the relevant field, details whereof and the research papers, were duly submitted to the University along with the application

form. This entitles her to eight marks, which have also been denied. Further, the private respondents are not qualified, as their M.Sc. degrees, experience and publications have been wrongly considered valid for giving marks under the criteria. In case the petitioner is correctly given marks for selection, she would score sixty four point seventy marks, and would be placed at number one in the order of merit, and the private respondents would be at number two and three. Lastly, it is contended that as the University has already considered the petitioner's experience, qualifications and publications and given marks to her as per the criteria for selection to the post of Assistant Professor (Dairy Chemistry), it cannot be permitted to take a stand to the contrary while considering her candidature for the post in question. Therefore, not awarding marks to her is arbitrary and discriminatory.

4. Learned counsel for the University as well as the private respondents, on the contrary, contest the petitioner's claim to be eligible on the basis of her qualifications. It is contended that she does not have essential qualifications for the post, since her M.Sc. degree is without research work in Dairy Technology. And her teaching experience has rightly not been counted for giving of marks, as it was not in continuity which is the requirement. For publications, the Selection Committee examined her research papers and gave marks only for the ones which were in the relevant field. Therefore, the petitioner has been given marks strictly as per the criteria, in a *bona fide* and fair manner. Her candidature was duly considered by the Selection Committee consisting of experts, who examined her Master's degree, experience as well as the publications before awarding marks, and the expert's opinion cannot be questioned or

substituted by this Court. The private respondents fulfill the requisite qualifications for the post. Accordingly, they have been considered eligible and given marks only as per their entitlement in the process of selection which is in accordance with law.

5. Submissions made by learned counsel for the parties have been considered and the documents placed on record have been perused with their assistance.

6. The issue that arises for consideration is, *whether the petitioner as well as the private respondents were awarded marks as per the criteria of selection for their qualifications, experience and publications in the relevant field.*

6.1. The requisite essential qualifications for the post, relevant for deciding the issue at hand, are the following:

- (1) Assistant Professor (Dairy Technology)
Essential Qualifications
 - i) xxx xxx
 - ii) M.Sc./M.Tech. (Dairy Technology/Dairy Science & Technology/Food Technology with research work in Dairy Technology/Food Science and Technology with research work in Dairy Technology/M.V.Sc. Animal Products Technology/Livestock Products Technology with research work in Dairy Technology with minimum 70% of marks or equivalent grade in a point scale where grading system is followed, a relaxation of 5% of marks will be given for the SC/Differently able categories.

Apparently, as per the requisite qualifications, the candidates must possess, among others, '*M.Sc. (Dairy Technology / Dairy Science & Technology / Food Technology with research work in Dairy Technology*'.

Undisputedly, the petitioner has done M.Sc. in Food Technology from

Guru Jambheshwar University of Science and Technology, Hisar. Her detail marks and grade point certificates as well as the degree have been placed on record; and none of these establish that she has done research work in Dairy Technology. Nomenclature of the degree is 'Masters of Food Technology', whereas the requisite qualification is 'Food Technology with research work in Dairy Technology'. Learned senior counsel has laid much stress on the 'Result-cum-Semester Grade Point Card', dated 13.8.2009, wherein research project is mentioned as one of the subjects for which the petitioner was given twelve credits with 'A' Grade. He, however, has not been able to point out as to what was the nature of her research project, and whether it was in Dairy Technology, nor has any document to that effect been placed on record by the petitioner. In this factual background, no exception can be taken to the opinion of selection committee considering the degree not relevant for the subject and giving no marks for the same to the petitioner.

6.2. Secondly, as per the criteria, a candidate is entitled to one mark for each year of experience after Master's degree. It reads as under:

2. Experience: 05 marks

One mark shall be given for each year of experience (after Master's degree) in teaching, research or extension in the cadre of Instructor including temporary appointment as Research Associate/ Training Associate/Technical Assistant/Assistant Professor/STA/ Research Fellow etc.

As per the experience details given by the petitioner herself in the application form, she did not have continuous experience of one year as Assistant Professor/Guest Lecturer in any of the colleges; her experiences were for small durations from two to four months. Whereas, as per the

criteria, the candidates are entitled to maximum five marks and one mark *for each year of experience*. Since the petitioner did not have continuous one year experience in any of the colleges, she was rightly not been given any mark for it.

6.3. Thirdly, the criteria further requires that candidates are entitled to maximum of ten marks for publications in the relevant field; which reads as under:

4. Publication in relevant field: 10 marks

a)	Full paper in International Journal/National Journal with NAAS rating of 6.0 or more than 6.0.	2.00 marks per paper
b)	Full paper in national Journal with NAAS rating of less than 6.0/Short communication in International Journal/National Journal with NAAS rating of 6.0 or more than 6.0	1.00 mark per paper
c)	Research note/Short communication/clinical case report	0.50 marks each
d)	Popular Articles	0.25 marks each

The petitioner has four publications in the National Journals with the requisite ‘NAAS’ rating, on that basis she has claimed one mark for each of them. The Selection Committee after examining the publications found that only one of these was in the relevant field and, accordingly, gave one mark for the same. The view taken that her other publications are not in the relevant field vis-à-vis the post in question, cannot be differed with by this Court, being an expert opinion.

6.4. Further, so far as the award of marks to the private respondents is concerned, it is established on record that the third respondent possesses M.Sc. degree in Food Science and Technology, with minor field- Agrous Food Product Technology, and research work/thesis on ‘Preparation of sweetened fruit yoghurt’. This was considered valid research in Dairy Technology by the selection committee. Further, she had continuous teaching experience from January 2008 to October 2009, January 2013 to

January 2014 and August 2010 to March 2012, and was given one mark each for these continuous stretches of more than one year. It is further established on record that she has claimed marks for seven publications, out of which only three were considered relevant by the selection committee. One of those was in an international journal, for which she was given two marks, and one each for the rest two publications.

6.5. Similarly, the fourth respondent had done M.Sc. in Food Science and Technology with minor field-Microbiology, and research work/thesis on 'Development of whey based cold coffee', which was considered valid research in Dairy Technology by the Selection Committee. Further, she has claimed experience from 22.9.2008 to 30.5.2009, 19.8.2013 to 30.5.2014, 13.8.2014 to 30.5.2015, for which no marks were given to her by the selection committee, since the stretches were of less than a year duration. Only for more than one year experience without break from 10.8.2015 to 18.7.2017, she was given marks. Besides, only two of her publications were considered relevant to the field and was given one mark for each of them.

6.6. The Selection Committee, which examined the petitioner's as well as the private respondents' degrees and research publications, consisted of senior academics and subject experts. Its composition is provided in Statute 6 of the University Statutes, which reads as under:

6. Appointment of Associate Professors, Assistant Professors and other teachers of equivalent rank.

xxx

xxx

xxx

Ordinarily, the Selection Committee for recommending suitable persons for different posts shall be constituted as follows:

(1).

xxx

xxx

xxx

(2).**For appointment of Assistant Professors/equivalents:**

- (i) Vice-Chancellor - Chairman
- (ii) Dean of the College concerned
- (iii) Director of Research
- (iv) Director of Extension Education
- (v) Dean, Post-Graduate Studies
- (vi) Head of Department concerned
- (vii) Two outside experts nominated by the Vice-Chancellor
- (viii) An academician representing SC/ST/OBC/Minority/Women/Differently-abled categories, in case any of candidate(s) representing these categories is the applicant, to be nominated by the Vice-Chancellor, if any of the above members of the selection committee do not belong to that category.

At least five members, including two outside experts, shall constitute the quorum.

These experts, after examining the candidates' certificates and related material, awarded marks as per the criteria by deciding, among other things, as to whether (i) the Masters' degrees were with 'research work in Dairy Technology', and (ii) the research papers were 'publication in the relevant field'. There is no material on record nor any has been referred to by the learned senior counsel which could in any manner indicate that the opinion formed by the experts was contrary to any rule or regulation. Besides, there is no *mala fide* alleged against any of the selection committee members, nor has any one of them been impleaded as a party to the petition. Additionally, the award of marks for qualifications, experience and publications were in line with the criteria, as discussed hereinabove. Therefore, it cannot be said that the selection committee committed any wrong in giving marks to the petitioner or the private respondents. The petitioner's candidature was duly considered by giving marks as per her entitlement, but she could not be selected being lower in merit.

6.7. It is settled preposition of law that opinion of subject experts is to be shown due deference by the Courts and not to be lightly interfered with, unless the experts' opinion is *mala fide* and/or in violation of any rule or regulation. A reference in that regard can be made to the law laid down by the Supreme Court in *Basavaiah (Dr.) v. Dr. H.L.Ramesh and others*, (2010) 8 SCC 372, its relevant paragraph 38 reads as under:

38. We have dealt with the aforesaid judgments to reiterate and reaffirm 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.

7. The last submission by the learned senior counsel claiming wrongdoing in giving marks to the petitioner on the basis of an earlier selection for the post of Assistant Professor in Dairy Chemistry, is also without merit. As apparent on record, the requisite qualifications for that post and the post in question are different. There was no requirement of M.Sc. in Food Science and Technology with research work in Dairy Technology, which is the requisite qualification for the post in question, for the earlier advertised post. The degree and publications which were considered relevant for the post of Dairy Chemistry, may not be relevant for the post of Dairy Technology, and the experts have also opined thus. Therefore, if the University considered the petitioner's qualifications and experience relevant for the earlier post, the same cannot be a ground to claim marks for the post in question also.

8. Accordingly, the issue stands answered in the affirmative.
9. In view of the discussion, the writ petition is dismissed being devoid of merit.

(TRIBHUVAN DAHIYA)
JUDGE

24.1.2024
Ashwani

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No