



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

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**CWP-21004-2024 (O&M)
Date of decision: 23.10.2024**

Dr. Ashwani Kumar Dhingra

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Sarwinder Goyal, Advocate for the petitioner
(through V.C.).

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order dated 05.03.2024 passed by the Lokayukta Haryana, whereby the complaint filed by the petitioner against respondent No.6-Dr. Rajesh Punia, against his having secured public employment as an Associate Professor in Indira Gandhi University, Meerpur (hereinafter referred to as 'the IGU, Meerpur') allegedly on the strength of false information about his experience, has been dismissed.

2. Learned counsel appearing on behalf of the petitioner contends that the petitioner is working as a Professor of Mechanical Engineering (UIET) at Maharishi Dayanand University, Rohtak. He had submitted a complaint against respondent No.6 for having unlawfully secured an appointment to the post of Associate Professor in the IGU, Meerpur by submitting false information about his experience. He contends that the IGU, Meerpur had issued an advertisement for the recruitment of teaching



staff, by way of deputation, and the last date for submission of application for the same was 28.02.2015. As per the requirements specified therein, the persons working as Assistant Professors and Associate Professors in the Central/State Universities, Government Institutions, Govt. Colleges of Haryana but eligible for the post of Associate Professor and Professor, could apply for the said post. It is stated that the minimum qualifications prescribed by the State Government, UGC for the said post required an experience of eight years of teaching and/or research in an Academic/Research Position equivalent to that of Assistant Professor of University. Respondent No. 6-Dr. Rajesh Punia had applied for the post of Associate Professor-Physics on deputation and he was successfully selected and appointed to the said post. It is argued that there was, however, a concealment of the period of leave of three years by the said respondent for which he was pursuing his Ph.D. Hence, he secured the appointment to the said post of Associate Professor by dishonestly submitting false information and concealing the leave period for pursuing the Ph.D. i.e. 02.04.2009 to 01.04.2012, hence, he did not possess the requisite experience.

3. A complaint in this regard was submitted by the petitioner to the then Vice Chancellor, IGU, Meerpur whereupon the same was forwarded to the Director, State Vigilance Bureau, Haryana. He contends that no action was however taken on the said complaint. An electronic complaint dated 03.12.2019 was also sent by the petitioner to the Police Station Dharuhera, Rewari for registration of the FIR as the information submitted



by respondent No.6 for securing the appointment disclosed commission of a cognizable offence. Supplementary supporting documents were also sent by the petitioner to the SHO, Police Station Dharuhera, Rewari for his examination and consideration. Instead of registration of an FIR, a preliminary inquiry was conducted into the allegations for which ASI Sube Singh was assigned the said duty. A detailed representation was also sent by the petitioner to the Director General of Police, Haryana. ASI Sube Singh however submitted an inquiry report dated 06.02.2020 to the SHO, Police Station Dharuhera, Rewari to the effect that no cognizable offence was made out and he recommended non-registration of the FIR in the said matter. The petitioner thereafter submitted a complaint under Section 154 (3) of Cr.P.C. to the Superintendent of Police, Rewari alongwith a copy thereof to the Additional Director General of Police, South Range Gurgaon as well as to the Director General of Police, Panchkula for registration of a criminal case. A subsequent complaint dated 05.06.2020 was also sent to the Superintendent of Police, Rewari which was assigned to ASI Rajesh, Incharge Police Chowki Meerpur, Rewari for inquiry. However, during the pendency of the said proceedings, the officials of the IGU, Meerpur initiated the process of disposal of the initial complaint dated 17.11.2019, after a period of 08 months, and the same was dismissed by citing that respondent No.6 had not concealed any fact while applying for the post of Associate Professor on deputation in the IGU, Meerpur in the year 2015.

4. Eventually, the inquiry officer-ASI Rajesh, Incharge Police



Chowki Meerpur also submitted his inquiry report and returned a finding that no cognizable offence was made out and recommended that the complaint be filed. The said complaint dated 08.06.2020 of the petitioner was accordingly disposed of by the SHO, Police Station Dharuhera, Rewari on 13.07.2020. It is also alleged that complaint No.377-Z dated 10.06.2020, which was submitted by the petitioner to the Additional Director General of Police, South Range, Gurgaon was assigned for inquiry to the Deputy Superintendent of Police (Headquarter), Rewari and that the said complaint was also disposed of on 10.06.2020, recommending against initiation of any criminal proceedings or FIR. He also alleged that on receipt of the letter from the IGU, Meerpur filing the complaints submitted by the petitioner, a response was sent by the petitioner on 15.07.2020 to the Vice-Chancellor/Registrar of the University alongwith a copy thereof to the Superintendent/Dy. Superintendent of Police, Rewari. It was alleged again that respondent No.6-Dr. Rajesh Punia has been misrepresenting the facts and has influenced the repeated inquiries conducted earlier by ASI Sube Singh, thereafter by ASI Rajesh as well as by Dy. Superintendent of Police and also by the authorities of the IGU, Meerpur.

5. The petitioner eventually preferred the above said complaint before the Lokayukta Haryana for seeking direction to conduct an inquiry against respondent No.6 and to initiate disciplinary action alongwith registration of a criminal case against the said respondent. The same has also been dismissed and it is on account of the dismissal of the complaint



No.216 of 2020 by the Lokayukta Haryana vide order dated 05.03.2024 that the instant writ petition has been filed.

6. Learned counsel for the petitioner has vehemently argued that there has been non-consideration of essential facts by the Lokayukta Haryana including the instructions issued by the University Grants Commission (UGC), from time to time, to the effect that the period spent on research has to be excluded from computing the period of experience. Hence, if the period spent by respondent No.6 in pursuing his Ph.D. from 02.04.2009 to 01.04.2012 is excluded, he did not possess the eligibility condition of 08 years of experience and was thus ineligible to be appointed as an Associate Professor. There was thus a material concealment of eligibility condition by respondent No.6 but same was not taken into consideration by the Lokayukta Haryana.

7. I have heard the learned counsel for petitioner and have gone through the documents appended with the present writ petition as also the impugned order passed by the Lokayukta Haryana.

8. It is evident from a perusal of the record and arguments of the petitioner that on receipt of the complaint, the Lokayukta Haryana forwarded the same to the Principal Secretary to the Government of Haryana, Department of Higher Education and a report was called for. Accordingly, a report dated 26.11.2021 was submitted, to which respondent No.6 had filed his objections and the complainant had also submitted his rejoinder dated 23.04.2023. On consideration of all the aspects, the complaint was marked to



the Registrar to the office of Lokayukta Haryana to conduct a preliminary inquiry and to submit a report. The needful was done and preliminary inquiry report dated 03.10.2023 was submitted by the Registrar, Lokayukta Haryana. It was noted by the 03 Members Committee duly constituted by the Vice-Chancellor, IGU, Meerpur, which recorded a finding against respondent No.6-Dr. Rajesh Punia that he had applied for deputation for the post of Associate Professor at IGU, Meerpur in response to an advertisement and that he had not mentioned about the claimed period and that the said Committee, that as per the communication received from the UGC, reported that the period of research could not be included toward experience of service. The same was considered by the Registrar alongwith the objections filed by respondent No.6 refuting the said allegations as well as the findings of the said 03 Members Committee. It was specifically stated in the report that the petitioner had been instituting multiple complaints with an intention to cause harassment and mental torture to respondent No.6, since he was a member of an enquiry committee that had submitted an enquiry report against the wife of the petitioner. It was further averred that all the relevant information including the year of completion of Ph.D. in the year 2013 had been disclosed by him in the application form for the said post and it was after scrutiny of all the relevant documents related to the academic qualification, research publication etc. the 'Scrutiny Committee' of the University had recommended the application of respondent No.6 for further consideration. The Executive Council of the University resolved to borrow



the services of respondent No.6 on deputation, in its meeting held on 30.03.2015 as an Associate Professor. It was specifically informed by respondent No.6 that the UGC guidelines/clarification, which was relied upon by the 03 Members Committee and has been referred by the petitioner-complainant, were issued on 01.03.2016 whereas the application form had been submitted by respondent No.6 on 28.02.2015. Hence, the instructions/clarification issued later in point in time i.e. on 01.03.2016 could not be applied retrospectively as on 28.02.2015 when the application form for the said post was submitted by respondent No.6. The Lokayukta Haryana considered all the relevant aspects and all the relevant objections/responses filed by the respective parties and submitted his report as under:-

“11. From a bare perusal of the Regulations specifying the qualification for the direct recruitment of Associate Professor in Universities at Clause-iv, it appears that there was no clarity regarding the counting or not counting of the period of Ph.D. Research for the Teaching Experience of serving candidate on the post of Assistant Professor. The phrase 'excluding the period of Ph.D. Research' apparently may be referring to the experience in research, in alternative to the teaching experience. This ambiguity is clearly endorsed/confirmed by the University Grants Commission itself, in its letter dated 01.03.2016 referred above. Even a



cursory look on this letter would leave no room for doubt that the issue regarding counting of the period of active service spent on pursuing Ph.D. was not clearly grasped or interpreted by the different institutions under the University Grants Commission, which led to the considering of the said issue by the UGC in its 512th meeting held on 04.02.2016. The clarification issued by the University Grants Commission is also revealing. In the clarification, for the first time, it was clearly stated that the period of active service spent on pursuing research degree i.e. for acquiring Ph.D. Degree simultaneously without taking any kind of leave may be counted as teaching experience for the purpose of direct recruitment/promotion to the post of Associate Professor and above. Meaning thereby, the instructions/regulations were indefinite regarding counting of the period of active service spent on pursuing of Ph.D. degree simultaneously with or without taking any kind of leave. Therefore, it appears that it was the subsequent clarification issued by the University Grants Commission vide letter dated 01.03.2016 that was taken into account in report (Mark A) to declare the respondent-Dr. Rajesh Punia ineligible for the post of Associate Professor at the time of filing his application dated 28.02.2015, retrospectively. Therefore, in the wake currency of regulations



governing the eligibility criteria for the post of Associate Professor having no mention of leave or on duty during Ph.D. degree, there was no occasion for respondent-Dr. Rajesh Punia to either mention the factum of pursuing his Ph.D. degree on UGC fellowship or to himself count his teaching experience deducting the period spent on pursuing his Ph.D. degree.

12. *In this backdrop, the report/comments of the Principal Secretary to Government of Haryana, Higher Education Department, Chandigarh concluding that respondent-Dr. Rajesh Punia got himself eligible by including the period of leave from 02.04.2009 to 01.04.2012 under FIP Programme to complete his Ph.D. and the said period cannot be included for counting the experience of service appear to be based on communication received from the University Grants Commission vide letter dated 01.03.2016. Therefore, the said report cannot be relied upon to conclude that the respondent indulged in concealment of material facts in order to secure appointment by fraudulent means and committed a criminal offence as alleged by the complainant. Once, it is clear that no cognizable offence was committed by the respondent-Dr. Rajesh Punia, the reports submitted and accepted by the respondent-Police Officers cannot be held to be wrong or erroneous. Thus, prima face, there exists no reasonable ground*



for conducting further enquiry or investigation in this matter by this institution.

Submitted before His Lordship Hon'ble Lokayukta Haryana for appropriate orders."

9. It is also evident from a perusal of the above said enquiry report that it was duly furnished to the complainant as well as to respondent No.6 who had filed their replies and the parties were heard. Upon consideration of all the respective arguments, the Lokayukta Haryana recorded that there was no prescribed application form for applying for deputation. Respondent No.6-Dr. Rajesh Punia had moved the application, giving all the particulars including of completion of Ph.D. in the year 2013. The resume was sent by him and the validity/eligibility of respondent No.6 was determined by the Scrutiny Committee and thereafter it was accepted by the Executive Council of the Indira Gandhi University, Meerpur. It was also noticed that respondent No.6 remained on deputation for a period of one year only and no undue benefit was availed by him and there was no criminality that could be attached merely on account of his non-mentioning of the period of study leave in the resume submitted for appointment. It was also averred that there was no non-disclosure of any information since the application form was submitted by respondent No.6 on 28.02.2015 whereas the clarification of the UGC, relied upon by the petitioner, as also referred to by the said 03 Member Committee, was issued only on 01.03.2016. The operative part of the order passed by the Lokayukta reads thus:-



“After hearing submissions of complainant and respondent, this Authority finds that complainant is alleging that respondent Dr. Rajesh Punia has wrongly shown the period of Ph.D. leave as teaching experience by concealing the tenure of study leave in application moved by him for seeking deputation on the post of Associate Professor in department of Physics at Indira Gandhi University, Meerpur, Rewari.

A perusal of documents shows that there was no prescribed application form for applying for deputation. Respondent moved application mentioning that he completed his Ph.D in 2013. Respondent Dr. Rajesh Punia submitted that in fact he has sent his resume to the authorities of Indira Gandhi University, Meerpur, Rewari and during scrutiny, whatever information was sought from him by Scrutiny Committee, was provided by him. He further submits that he remained on deputation for one year only and no undue benefit has been availed by him and no criminality could be attached to his non-mentioning of period of study leave in his resume submitted for appointment.

This Authority finds itself in consonance with the stand of respondent Dr. Rajesh Punia, as there was no proforma of application and non-mentioning of leave period



for completing Ph.D. cannot be made basis for initiating criminal action in absence of mens rea.

Accordingly, the present complaint is hereby closed, however, with liberty to the complainant to avail appropriate remedy by challenging the appointment/ selection of the Respondent Dr. Rajesh Punia, in accordance with law.”.

10. As per the provisions of the Haryana Lokayukta Act, 2002, the Act has been notified for inquiry and investigation into the allegations and grievances against public servants and for matters connected thereto. An allegation in relation to public servant has been defined under Section 2(b) of the Haryana Lokayukta Act, 2002 which necessitates that there has to be an intentional and knowing abuse of his position by a Government servant to obtain any undue gain to themselves or any other person or to cause undue hardship or harm to any other person. Further, whether such an act of the public servant is actuated by personal interest or improper or corrupt motives or is guilty of corruption or displays lack of integrity in his capacity as such public servant; or is in possession of pecuniary resources or property disproportionate to his known source of income, the same would fall within the domain of an allegation as has been defined under Section 2(b) of the Haryana Lokayukta Act, 2002. Further, a ‘grievance’ has been defined under Section 2(h) of the Haryana Lokayukta Act, 2002 to mean that a right to which a complainant is entitled to or is denied to him or is unreasonably delayed on account of act of omission or commission of a public servant.



11. It is not the argued case of the petitioner that any accrued or vested right of the petitioner has been denied to him and as such, the complaint in question does not fall within the meaning of Section 2(h) of the Haryana Lokayukta Act, 2002. The same may at best in the nature of Section 2(b) of the Haryana Lokayukta Act, 2002.

12. It is evident from a perusal of the allegations leveled in the complaint as also the finding recorded by Lokayukta Haryana that there has been no knowing or intentional abuse of the position by respondent No.6 against whom proceedings had been initiated and no allegation of corruption or lacking of integrity. There was no prescribed proforma for submission of application form and all information, as was thus required to be furnished, had been submitted by respondent No.6. The question of eligibility of the petitioner was not an act attributable to respondent No.6 and rather the same was an exercise undertaken by the Scrutiny Committee of the IGU, Meerpur. Respondent No.6 cannot thus be held liable for any acts or omission done by the Scrutiny Committee and the decision taken by the Executive Council of the IGU, Meerpur. Surprisingly, even though the decision to hold respondent No.6 eligible was that of the aforesaid Scrutiny Committee/Executive Council, however, no proceedings have been sought to be initiated by the petitioner against the said respondents. Moreover, notwithstanding that the nature of allegations leveled by the petitioner did not fall in the definition of Section 2(b) of the Haryana Lokayukta Act, 2002, the same was none-the-less duly investigated into and it was noticed that the guidelines issued by



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the UGC were unclear at the time of submission of the application form by respondent No.6 on 28.02.2015 and that the clarification as regards exclusion of the period of research from teaching experience was issued only in March,2016 i.e. much later than the submission of the application form. Hence, it could not be said to be an act which is perpetuated by any corrupt motives or lacking integrity or the directive being an abuse of the authority either by respondent No.6 or the authority forwarding the application form of the said respondent. Further, it has also remained uncontroverted that respondent No.6 was member of a Committee constituted by the Maharishi Dayanand University (MDU), Rohtak to look into the misconduct of Smt. Sonika Dhingra-wife of the petitioner. It is apparently on account of the finding recording by the said Committee (of which respondent No. 6 was a member) that a string of complaints has been instituted by the petitioner. The same has already been inquired into on multiple occasions, by different agencies and authorities and has been rejected. Nonetheless, the petitioner has continued to institute one complaint/petition after the other. Thus this Court is of the opinion that it is abuse of process of law. The present writ petition is accordingly **dismissed** with a cost of Rs.50,000/- on the petitioner, to be deposited with the Poor Patient Welfare Fund (PPWF) of Post Graduate Institute of Medical Education & Research, Chandigarh.

(VINOD S. BHARDWAJ)
JUDGE

23.10.2024

Mangal Singh

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