IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/B) No. 327 of 2023

Dr. Raj Kumar Singh ... Petitioner

Versus

Secretary, Department of Agriculture and Farmers Welfare, Government of Uttarakhand, Dehradun & Others ... Respondents

With

Writ Petition (S/B) No. 317 of 2023
Writ Petition (S/B) No. 324 of 2023
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Writ Petition (S/B) No. 330 of 2023
Writ Petition (S/B) No. 340 of 2023
Writ Petition (S/B) No. 347 of 2023
Writ Petition (S/B) No. 371 of 2023
Writ Petition (S/B) No. 480 of 2023
Writ Petition (S/B) No. 531 of 2023

Mr. C.D. Bahuguna, Mr. A.S. Rawat, Mr. K.P. Upadhyaya, Mr. T.A. Khan, Senior Advocates assisted by Mr. Anup Kumar Verma, Mr. R.S. Rawat, Mr. C.S. Dalakoti, Mr. Narayan Har Gupta, Mr. Jitendra Chaudhary, Mr. T.C. Pandey and Mr. A.K. Tripathi, Counsel for the petitioners.

Mr. S.N. Babulkar, Advocate General, assisted by Mr. Amarendra Pratap Singh, Additional Advocate General for the State of Uttarakhand.

Mr. S.S. Lingwal, Advocate, for the G.B. Pant University.

Mr. Ajay Singh Bisht, Advocate, for the ICAR.

Ms. Anjali Bhargava, Advocate, for the UGC.

J U D G M E N T

Hon'ble Manoj Kumar Tiwari, J.
Hon'ble Pankaj Purohit, J.

Since common questions of facts and law are involved in these writ petitions, therefore, these are being heard and decided together by this common judgment. However,

for the sake of brevity, facts of Writ Petition (S/B) No. 327 of 2023 alone are being considered and discussed. Petitioner Dr. Raj Kumar Singh has sought the following reliefs:

"I. Issue a writ, order or direction in the nature of Certiorari, summoning the records from G.B. Pant University, Pantnagar, and quashing the impugned orders 04.07.2023 and 12.07.2023, issued by respondent nos. 1 & 2, contained in Annexure-1 & 2 to this petition.

II. Issue a writ, order or direction in the nature of Mandamus commanding the respondent nos. 1 to 6 not to remove the petitioner from the post of Professor and HOD, department of Agrometeorology pursuant to the impugned orders contained in Annexure-1 & 2 to this petition.

III. Issue a writ, order or direction in the nature of Mandamus commanding the respondent nos. 1 to 6 not to deprive the petitioner of any service benefits pursuant to the impugned orders, contained in Annexure-1 & 2 to this petition."

(2) It is not in dispute that petitioner was appointed on the post of Junior Research Officer (Agronomy) vide order dated 20.11.1992 in the Department of Agrometeorology in G.B. Pant University of Agriculture and Technology, Patnagar (for short, 'University'). The said appointment was made after selection, which was held pursuant to an employment notice no. 1 of 1991. In the said advertisement, the post of Junior Research Officer has been shown as equivalent to the post of Assistant Professor and both these posts were placed in the same pay scale i.e. ₹2200-4000. It is also not in dispute that

petitioner was appointed with the approval of Board of Management of the University. Learned Counsel for the University concedes that petitioner was selected by a Selection Committee constituted as per Clause 4(d) of Chapter XIII of the Statute of the University, which is extracted below:

"4(d) The Selection Committee for the appointment of a Professor, Associate Professor, Assistant Professor or teacher shall consist of;

(i) The Kulpati who shall be the Chairman thereof;

(ii) The Dean of the Faculty concerned;

(iii) One Head of the Department to be nominated by the Kulpati;

(iv) Two experts to be nominated by the Kuladhipati;

*** Provided that if the Kulpati (Vice-Chancellor) is, for any reason, not available to participate in any meeting of the Selection Committee constituted under clause (d), then in the case of Assoc. Professors, Assitt. Professors and equivalent posts, he may, by general or special orders, require the Prati-Kulpati (Pro-Vice-Chancellor) or the Dean of the Faculty concerned to preside over the Selection Committee and perform functions of the Chairman."*

(3) It is not in dispute that a person can be appointed to a teaching post in the University only after selection by the Selection

Committee constituted under Clause 4(d) of Chapter XIII of the Statute. Since petitioner was appointed after selection in terms of Clause 4(d), therefore, it can be safely inferred that the University recognized the post in question as a teaching post.

(4) According to the petitioner, as Junior Research Officer, his primary duty is to conduct and guide research, which, according to petitioner, brings him within the ambit of the expression 'Teacher', as defined in Section 2(k) of U.P. Krishi Evam Prodyogik Vishwavidyalaya Adhiniyam, 1958. Mr. C.D. Bahuguna, learned Senior Counsel appearing for the petitioner, submitted that the University, which is petitioner's employer, admits that petitioner is not only guiding and conducting research but is also engaged in extension programmes, which is one of the objects of the University as per Section 4(c) of the Act.

(5) From perusal of the record, it is revealed that petitioner was promoted as Senior Research Officer in the Department of Agrometeorology in the pay scale of ₹12,000-18,300 vide order dated 10.11.2003, issued by the Chief Personnel Officer of the University. It is further revealed that petitioner was subsequently promoted as Professor by the competent authority in the University in the pay band of ₹37400-67000 with Academic Grade Pay of ₹10,000, vide order dated

14.11.2011. Services of the petitioner were confirmed on the post of Junior Research Officer in the University w.e.f. 9.12.1994.

(6) The sole question which falls for consideration before this Court is whether petitioner is a ‘Teacher’ for getting the benefit of the decision taken by the State Government whereby age of retirement of Teachers in the University was increased to 65 years.

(7) Earlier the age of superannuation of University Teachers was 60 years, which was increased to 65 years by Government Order dated 20.9.2013. Petitioner completed 60 years of age in the year 2020 and by giving him the benefit of Government Order dated 20.9.2013, he was permitted to continue in service beyond 60 years. However, by the order dated 4.7.2023, the benefit of increased age of superannuation was withdrawn from him by declaring him not to be a ‘Teacher’.

(8) It is not in dispute that the decision to withdraw the benefit of increased age of superannuation from petitioner was taken without providing opportunity of hearing to him, as no notice or opportunity of hearing was given to him. It is also not in dispute that approval of the Board of Management, which is the competent authority, was not obtained before taking the impugned decision. Since petitioner was a permanent employee of the University and the impugned order has

resulted in termination of his service, therefore, Clause 4(e) of Chapter XXV of the Statue of the University is attracted, which enumerates the grounds on which services of a confirmed employee could be terminated. The impugned order, however, is not referable to any of the grounds mentioned in Clause 4(e) of Chapter XXV of the Statute.

(9) Mr. C.D. Bahuguna, learned Senior Counsel appearing for the petitioner, relied upon a judgment rendered by this Court in Writ Petition (S/B) No. 350 of 2023 and submitted that since the issues raised in the present writ petition are identical to the issues involved in Writ Petition (S/B) No. 350 of 2023, therefore, this writ petition also deserves to be decided in terms of the said judgment.

(10) Mr. S.N. Babulkar, learned Advocate General appearing for the State, however, submitted that the present writ petition is distinguishable on facts, therefore the judgment rendered in Writ Petition (S/B) No. 350 of 2023 will not be applicable to the present writ petition. He submitted that petitioner in Writ Petition (S/B) No. 350 of 2023 was appointed in a Project, which was fully funded by the State Government, while in the present case, petitioner was appointed in All India Coordinated Research Project, which was funded to the extent of 75 per cent by the Indian Council for Agricultural Research (for

short, ‘ICAR’) and funding by the State Government is only to the extent of 25 per cent. Mr. Babulkar has relied upon a letter, issued by the ICAR, dated 23.11.2023, where it is mentioned that the decision taken by the Agriculture Universities in State of Uttar Pradesh to grant benefit available to Teachers to personnel serving in Krishi Vigyan Kendra funded by ICAR, is not proper.

(11) Mr. C.D. Bahuguna, learned Senior Counsel appearing for the petitioner, in reply to the aforesaid submission made on behalf of the State, has referred to Government Order dated 29.3.1994 (Annexure-14 to the writ petition) and another Government Order dated 27.7.2005 (Annexure-RA-10 to the rejoinder affidavit). By the Government Order dated 29.3.1994, State Government had granted permission to Vice Chancellor, G.B. Pant University for making appointment against vacant posts in the Projects, funded by the ICAR, including the post of Junior Research Officer and Senior Research Officer. Mr. C.D. Bahuguna, Senior Advocate, thus submits that it cannot be contended on behalf of the State that petitioner was appointed without concurrence of the State Government.

(12) Perusal of subsequent Government Order dated 27.7.2005, issued by Government of Uttarakhand, reveals that permission to make appointment against 92 vacant post of Teachers was granted to Vice-Chancellor, G.B. Pant University of Agriculture and Technology.

A careful perusal of the said Government Order further reveals that out of those 92 teaching posts, 27 posts were in All India Coordinated Research Project funded by ICAR. Thus, it is contended on behalf of the petitioners that after declaring the persons appointed in ICAR funded projects as Teachers, vide Government Order dated 27.7.2005, State Government cannot take U-turn by disputing the status of petitioner as Teacher. Mr. Bahuguna has further referred to Government Order dated 9.11.2009 (annexed as RA-16 to the rejoinder affidavit), issued by the Secretary, Agriculture, Government of Uttarakhand in support of his contention that petitioner was getting UGC Pay Scales ever since he was appointed, which is admissible only to Teachers of the University, and not to non-teaching staff.

(13) Mr. S.S. Lingwal, learned Counsel appearing for the University, submitted that all the petitioners were appointed as Junior Research Officer and they are engaged in classroom teaching as well as research and extension programmes, which is also part of teaching work, thus they are Teachers as defined under Section 2(k) of the Act of 1958. He further submitted that all the petitioners were given benefit of Career Advancement Scheme in terms of UGC Regulations as adopted by the State Government from time to time, which is available only to Teachers of the University and not to the non-teaching staff. He further contended that source of funding

does not make any difference as regards the status of the petitioners, and it makes no difference whether a Junior Research Officer is appointed against State funded project or ICAR funded project, and all persons appointed for guiding and conducting research on extension programmes are to be treated as Teacher in view of the definition given in Section 2(k) of the Act.

(14) Mr. S.N. Babulkar, learned Advocate General appearing for the State, contended that in the appointment letter, there is nothing to indicate that petitioners were appointed against teaching posts. Thus, according to him, they cannot be held to be Teacher for giving benefit of enhanced age of superannuation.

(15) Mr. C.D. Bahuguna, however, has referred to Clause 5 of the appointment order dated 20.11.1992 (page-71), where it is mentioned that petitioner will have to abide by regulation on Code of Conduct for Teachers of the University. This stipulation, according to Mr. Bahuguna, leaves no room for doubt that petitioners were appointed against teaching posts.

(16) After considering the rival contention of the parties, we are of the considered opinion that merely because source of funding in respect of the project in which petitioners were appointed is different from the source of funding of the project in which petitioners in

Writ Petition (S/B) No. 350 of 2023 were appointed would not *ipso facto* lead to the conclusion that petitioners were appointed against non-teaching posts. Since mode of appointment and duties and responsibilities of the petitioners are same as that of the petitioners in Writ Petition (S/B) No. 350 of 2023 and there is no difference at all in their status, except the source of funding, therefore, that alone will not be sufficient to treat the petitioners in present writ petitions differently. Thus we have no hesitation in holding that petitioners are 'Teacher' as defined under Section 2(k) of the Uttar Pradesh Krishi Evam Prodyogik Vishwavidyalaya Adhiniyam, 1958.

(17) Since all other issues have been dealt with by this Court in Writ Petition (S/B) No. 350 of 2023, therefore, these writ petitions also deserve to be decided in terms of the judgment rendered in Writ Petition (S/B) No. 350 of 2023.

(18) The writ petitions are therefore decided in terms of the judgment rendered in Writ Petition No. 350 of 2023 and other connected cases.

(Pankaj Purohit, J.) **(Manoj Kumar Tiwari, J.)**

15.4.2024
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