



2024:DHC:4403



\$~70

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 24.05.2024

+ W.P.(C) 7619/2024
SUSHAMA TALEGAONKAR Petitioner
versus

DELHI PHARMACEUTICAL SCIENCES AND RESEARCH
UNIVERSITY & ANR. Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Sudarshan Rajan, Mr. Hitain Bajaj
and Mr. Ramesh Rawat, Advocates

For the Respondent : Mr. Yashvardhan and Ms. Kritika
Nagpal, Advocates

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]****CM APPL. 31651/2024**

1. Exemption allowed subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 7619/2024 & CM APPL. 31650/2024 (Stay)

3. By way of the present petition under Article 226 of the Constitution of India whereby the petitioner seeks quashing and setting aside of the impugned show cause notice dated 06.05.2024 issued by the respondents.

Signature Not Verified

Digitally Signed
By: VINOD KUMAR
Signing Date: 29.05.2024
16:20:41

W.P.(C) 7619/2024



4. Mr.Rajan, learned counsel for the petitioner submits that the petitioner was inducted into the services of the respondents on the basis of an advertisement issued on 27.08.2016. The petitioner being eligible under the requisite conditions stipulated in the said advertisement had applied for the post of Associate Professor under UR category on 19.09.2016. The petitioner was offered the appointment on 30.06.2017 and by way of letter dated 03.07.2017, the petitioner had accepted the appointment as Associate Professor. Consequent thereto, on 17.08.2017, the petitioner had joined the services of the respondents as an Associate Professor.

5. In the usual formalities, the respondents had issued a letter dated 28.07.2017 to the petitioner to provide all the copies of the experience certificate. On 28.09.2017, the petitioner is stated to have submitted her experience certificate issued by the Jamia Hamdard University. Consequent thereto, the petitioner continued to serve respondent no.1 at the post of Associate Professor till date

6. It was only on 06.05.2024 that the respondent had issued a show cause notice alleging that the petitioner has violated the terms and conditions of the advertisement of non-submission of her experience certificate on time with simultaneous notice as to why she should not be terminated from the services. The petitioner is stated to have already filed her reply on 14.05.2024.

7. Mr. Rajan, learned counsel for the petitioner submits that the present petition has been filed only apprehending that coercive action may be undertaken by the respondent to terminate the services of the



petitioner on the aforesaid allegations of non-submission of the experience certificate to the respondent on time.

8. Learned counsel invites attention of this Court to the show cause notice dated 06.05.2024, particularly to page 23 of the present petition whereby in paragraphs nos. 7 to 10, the allegations are enumerated. He submits that there is no allegation in the entire show cause notice that the petitioner did not have the essential or the requisite qualification or the experience as stipulated in the advertisement. He submits that it is only a bald allegation that the experience certificate was not submitted by the petitioner in the time stipulated in the said advertisement.

9. According to Mr. Rajan, the allegation itself is, *prima facie*, without any basis for the reason that the petitioner did, in fact, submit her experience certificate, according to the respondent themselves, on 28.09.2017. He further submits that her credentials were verified by the respondent-University and found to be genuine, on which, the petitioner was confirmed as an Associate Professor too. He submits that it is not a case where the petitioner's essential qualifications are doubted or questioned. According to Mr. Rajan, the said show cause notice is one which would be termed as '*illegal*' and would squarely falls within the ratio laid down by the Supreme Court in ***Food Corporation of India Vs. Rimjhim*** reported in (2019) 5 SCC 793. He submits that though ordinarily, the Courts would not interfere in issuance of show cause notices, however, in case where there is a blatant illegality in issuance of such show cause notice, the Courts ought to interfere.

10. Mr. Yashvardhan, learned counsel appearing for the respondent submits that in the present case, the petitioner has already submitted her



reply to the show cause notice dated 06.05.2024 which is under consideration of the Competent Authority. He submits that it is well settled that Court should be loath in interfering at the stage of issuance of show cause notices or even chargesheet and as such he prays for dismissal of the present petition.

11. This Court has heard the arguments of Mr. Rajan, learned counsel appearing for the petitioner as also Mr. Yashvardhan, learned counsel appearing for the respondent-university.

12. It is relevant to consider the contents of the show cause notice particularly the paragraphs at page 23 of the present petition which are as under:-

“7. And whereas, ultimately a letter no. F.No.10/474/2017/DPSRU/4891-4893 dated 28.08.2017 was sent to Dr. Sushama Talegaonkar by the then offg. Registrar, DPSRU to produce all the original education certificates/Degrees, Experience Certificate and Caste certificate within 7 days from the date of issue of the letter.

8. And whereas, in response to letter dated 28.08.2017, Dr. Sushama Talegaonkar had submitted an application vide Diary No. 2297 dated 20.09.2017 wherein she had stated that she has submitted a request to her previous employer for issuance of the experience certificate and the same is likely to be issued shortly. It shows that she did not had experience certificate till 20.09.2017.

9. And whereas, Dr. Sushama Talegaonkar on 28.09.2017 furnished the self-attested copies of teaching experience certificate issued by Jamia Hamdard University on 08.09.2017.

10. And whereas, from the position mentioned in above paras it comes -out that Dr. Sushama Talegaonkar had not



2024:DHC:4403



complied the mandatory requirement of submitting a copy of Experience Certificate as mentioned in the advertisement uploaded in the official website of the University and this is a serious violation. As such initial appointment of Dr. Sushama Talegoankar as Associate Professor in DPSRU appears to be void-ab-initio."

On the aforesaid basis, the show cause notice was issued to the petitioner in terms of the clause 21 of First Statutes of the respondent-University which is in respect of the procedures required to be followed in case of removal of the employees of the University.

13. From the plain reading of the impugned show cause notice, it is apparent that the show cause notice is only issued in respect of delayed submission of the experience certificate to the respondent-University and not that the petitioner was not qualified or did not have the essential qualification or the experience, as on the date of interview or on the date of verification of her documents.

14. It is also not disputed by the respondent-University that the petitioner did in fact submit her experience certificate on 28.09.2017 which were in fact verified by the respondent-University and petitioner was offered appointment letter to the post of Associate Professor. It is also not disputed that the petitioner has later been confirmed on the said post and has been discharging duties since the year 2017 till date.

15. Ordinarily, this Court would have not interfered in a show cause notice issued by an institution since the same is covered by the ratio of Supreme Court in ***Union Of India And Another vs Kunisetty Satyanarayana*** reported in (2006) 12 SCC 28. However, it appears that



2024:DHC:4403



the facts obtaining in the present petition could be similar to that of which had arisen in the case of *Rimjhim* (Supra).

16. Since the petitioner has already filed her reply on 14.05.2024 in response to the show cause notice dated 06.05.2024, this Court refrains from making any further observation, however, directs the Competent Authority of the respondent to keep the aforesaid facts in mind as also the judgment of the Supreme Court in *Rimjhim* (Supra) while considering the reply filed by the petitioner.

17. In that view of the matter, no further orders are required to be passed except to direct the Competent Authority of the respondent-university to take note of the aforesaid observation while passing the orders.

18. Moreover, since this Court, in case of other employees, has been granting 10 days protection to the petitioner in those cases, it would be unfair to deny the petitioner the same relief. Accordingly, the petitioner would also be granted a protection of 10 days from any coercive action being taken post the order to be passed by the Competent Authority, in order to enable the petitioner to take appropriate steps for redressal of her grievances.

19. With the aforesaid observations, the petition is disposed of.

TUSHAR RAO GEDELA, J.

MAY 24, 2024
ms