



2024:DHC:1496



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

+ **W.P.(C) 10360/2019**

BHUVANESHWARI SUBRAMANIAN Petitioner

Through: Mr. Gaurav Bharadwaj, Ms.
Garima Bharadwaj Advs. with
petitioner in person.

versus

UNIVERSITY GRANTS COMMISSION Respondent

Through: Mr. Apoorv Kurup, Ms. Gauri
Goburdhun and Ms. Nidhi
Mittal, Advs.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)
23.02.2024

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1. The petitioner holds degrees of M.A in Economics and M.Phil. in Planning and Development from the Indian Institute of Technology (IIT), Bombay. She applied for undertaking the National Eligibility test (UGC-NET) conducted on 8 July 2018, which entitled her to recruitment as an Assistant Professor as well as for obtaining the Junior Research Fellowship (JRF) in order to enable her to undertake her Ph.D. She applied for grant of JRF to undertake her Ph.D. in the subject of Education.

2. The application was required to be submitted to the Central

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Board of Secondary Education (CBSE), who had been outsourced by the University Grants Commission (UGC) to accept applications from candidates desirous of undertaking the UGC-NET as well as to conduct the examination. The relevant clauses of Clause 3 of the Notification issued by the CBSE (hereinafter referred to as “THE CBSE Notification”) setting out the conditions “For Eligibility for Assistant Professor only or Junior Research Fellowship & Eligibility for Assistant Professor Both”, via the UGC-NET Examination to be held in July 2018, as released by the CBSE, read thus:

“3) CONDITIONS OF ELIGIBILITY:

i) Candidates who have secured at least 55% marks (without rounding off) in Master's Degree OR equivalent examination from universities/institutions recognised by UGC (on the website: <https://www.ugc.ac.in/oldpdf/consolidated%20list%20of%20All%20universities.pdf>) in Humanities (including languages) and Social Science, Computer Science & Applications, Electronic Science etc. (list of subjects of post graduation attached at page No. 20) are eligible for this Test. The Other Backward Classes (OBC) belonging to non-creamy layer/Scheduled Caste (SC)/Scheduled Tribe (ST)/ persons with disability (PwD) category candidates who have secured at least 50% marks (without rounding off) in Master's degree or equivalent examination are eligible for this Test.”

3. Inasmuch as the UGC has, in the present case, sought to rely on sub-clause (v) of Clause 3 of the aforesaid notification, the said clause may also be reproduced as under:

“v) Candidates are advised to appear in the subject of their post graduation only. The candidates, whose post graduation subject is not covered in the list of subjects in item No.14 (on page 12-13), may appear in a related subject.”



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4. The petitioner was successful in the UGC-NET Examination and the following result was communicated to her:

CBSE-UGC NET RESULT - July 2018

Roll No.	15065513
Candidate Name	BHUVANESHWARI SUBRAMANIAN
Subject	(009) Education

PAPER	PAPER-1	PAPER-2	GRAND TOTAL
MARKS OBTAINED	66	122	188
MAXIMUM MARKS	100	200	300
PERCENTAGE (%)	66.00	61.00	62.67

REMARK	QUALIFIED FOR JRF & ASSISTANT PROFESSOR
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5. There is nothing to indicate that the afore-extracted result, which clearly stated that the petitioner had been found qualified for grant of the JRF was in any way provisional. It was, therefore, ordinarily not open to reconsideration in the absence of any provision which permits such reconsideration. Mr. Kurup has not been able to draw my attention to any provision which permits reconsideration of a decision to grant JRF to a candidate, consequent to the candidate succeeding in the UGC-NET Examination.

6. On the basis of the aforesaid result, the petitioner commenced pursuing her Ph.D. course and is presently undertaking the said course.

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7. On 12 February 2019, the UGC issued the following communication, with which the petitioner is aggrieved and against which the petitioner has moved to this Court:

**“University Grants Commission
(Ministry of HRD, Government of India)
National Educational Testing Bureau
University of Delhi, South Campus
Benlto Juarez Marg, New Delhi -110 021**

F.No.I5-9(July, 2018)/2018(NET)

UGC-REF, No.: 1290/(NET-July,2018)

Ms. Bhuvaneshwari Subramanian
D/o Sh. S.Sivasubramanian
A-111, Tarang Apartments
19-I.P. Extension, Patparganj
Delhi-110092
Roll No. 15065513

NET Subject; Education (009)

Subject: National Eligibility Test (UGC-NET) conducted on 8th July, 2018

Madam,

You were declared provisionally qualified in the UGC-NET held on 8th July, 2018 for Junior Research Fellowship (JRF) and Eligibility for Assistant Professor in the NET subject 'Education', subject to fulfilment of eligibility conditions prescribed for UGC-NET.

On examining your documents, it was observed that you have obtained Master of Arts in Economics from Jamia Millia Islamia, New Delhi.

You are hereby informed that *the Master's degree in Economics obtained by you is not relevant/ related to 'Education', i.e., the subject in which you have qualified the UGC-NET, therefore, UGC regrets to declare you as disqualified in the UGC-NET held on 08.07.2018.*

Yours faithfully.

Sd/-

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(Dr. Surender Singh)
Joint Secretary”

(Emphasis supplied)

8. At a plain glance, the very opening paragraph of the aforesaid communication is incorrect, as there is no “provisional” declaration of the petitioner as qualified in the UGC-NET which was held on 8 July 2018. If the declaration of a result is provisional, it has to be so specifically stated in the result itself. Neither is there any indication in the result of the petitioner’s UGC-NET Examination as extracted in para 4 *supra*, nor has my attention been invited to any provision, which made the result initially as released by the CBSE entitled to be treated as provisional. The UGC was, therefore, in error in presuming that the petitioner had been declared as provisionally qualified in the UGC-NET. The declaration was not of provisional qualification, but of final success.

9. While this factor alone would be sufficient to set aside the impugned letter dated 7/12 February 2019, the petitioner having been told that she was found qualified for the JRF, and there being nothing to indicate that the said result was provisional in nature, or was open to revisitation at a later stage, the UGC clearly erred in re-examining the entitlement of the petitioner for grant of JRF.

10. That apart, even on merits, the basis for reversing the decision regarding the petitioner’s entitlement to the JRF, as contained in the impugned letter dated 7/12 February 2019, is factually and legally unsound. The concluding paragraph of the letter dated 7/12 February

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2019 indicates that the UGC, in deciding to reverse the decision to grant the JRF to the petitioner, was persuaded by the fact that the Master's Degree in Economics held by her was not relevant/related to education, which was the subject in which the petitioner had qualified the UGC-NET. This was the basis for the UGC "regrettably" declaring the petitioner as disqualified in the UGC-NET Examination held on 8 July 2018 for grant of the JRF.

11. In this context, the counter affidavit filed by the UGC has sought to place reliance on sub-clause (v) of Clause 3 of the CBSE Notification, already reproduced in para 3 *supra*, but, for the sake of clarity reproduced once again as under:

“(v) Candidates are advised to appear in the subject of their post-graduation only. The candidates, whose post-graduation subject is not covered in the list of subjects in item No.14 (on page 12-13), may appear in a related subject.”

12. Clause 3 (v) of the CBSE Notification is, on a plain reading, merely advisory in nature. It cannot constitute a basis, therefore, to hold that the petitioner was ineligible for grant of the JRF. Though Mr. Kurup sought to submit that the clause was intended to be mandatory, if that were so, the clause should have been worded as such. In academic matters, the conditions and stipulations regarding eligibility and entitlement for undertaking examinations, and for obtaining qualifications or fellowships, have to be clear, unambiguous and unequivocal. If there is any ambiguity in such cases, the benefit would necessarily enure to the students, rather than to the framers of the provision.



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13. Clause 3(v) of the CBSE Notification is clearly advisory in terms. It cannot, therefore, be treated as mandatory even if the framers of the Notification so intended.

14. That apart, the impugned communication dated 12 February 2019 was further in error in assessing the petitioner's eligibility and entitlement to the JRF, consequent to undertaking the UGC-NET, based on the Masters Degree in Economics held by her. The petitioner had, in fact, written to the UGC as far back as on 15 January 2019, thus:

“15-01-2019

To,
Head, NET- Bureau,
University Grants Commission,
National Education Testing Bureau,
University of Delhi, South Campus,
Benito Juarez Marg,
New Delhi - 110021.

Subject: Request to process the award of Junior Research Fellowship (UGC-NET July 2018)

Dear Sir/Ma'am,

I appeared in the UGC-NET exam held in July 2018 in the subject Education and my roll number was 15065513. I cleared the exam and qualified for the award of JRF as per the result declared on 31-07-2018. However, I have not yet received the JRF award letter and have been told that my case is pending approval since the subject of my post-graduation was not Education.

I have an MA in Economics (completed in 2012), however my subsequent work experience and my research interests lie in the field of education. Moreover, *I have an M.Phil. in Planning and Development (completed in 2017), which was an interdisciplinary course, based on which I had applied for the UGC-NET exam in Education.* I am also currently enrolled as a PhD candidate in the

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School of Development Studies, Ambedkar University Delhi where my research focuses on Education. However, I have not specifically pursued M.A. in Education or M.Ed. So kindly consider my M.Phil as an equivalent degree. I therefore request you to kindly consider my application for awarding me JRF for pursuing research in the field of education. I am also attaching a letter from the Dean of the School of Development Studies, Ambedkar University Delhi in support of my application.

I look forward to getting a positive response from your end.

Yours faithfully
Sd/-/15-01-2019
Bhuvaneshwari Subramanian”

(Emphasis supplied)

15. In the aforesaid letter, it is clearly stated that the petitioner had applied for the UGC-NET Exam for JRF in Education on the basis of the M.Phil. Degree held by her in Planning and Development, treating it as an interdisciplinary course, and not on the basis of her Master’s degree in Economics. The fact that the petitioner had applied for undertaking the UGC-NET Examination in Education, and for obtaining the JRF on the basis of her M.Phil. Degree in Planning and Development, is also borne out by the following communication dated 1 December 2023, addressed by the CBSE to the UGC, which the UGC has itself placed on record:

“No.CBSE/CTET/2023-24

Date: 01.12.2023

To

Smt. Chander Kanta Bhalla
Under Secretary
University Grants Commission
National Educational Testing Bureau
University of Delhi, South Campus

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Benito Juarez Marg, New Delhi-110021

**Sub:- Court Case W.P. (C) No. 10360/2019 titled
Bhuvaneshwari Subramanian Vs. UGC & others.**

Madam

In reference to your letter No. F.No.1-1 (NET/Misc.Queries)/2011(NET) dated 01.12.2023 regarding above cited subject. This is to inform that receiving hard copy from the applicant of UGC-NET was dis-continued from the examination held in June, 2015. As per the procedure notified from NET, June, 2015 the candidates have to fill up their application form online on the portal developed for this purpose during the specified time. The candidates could generate confirmation page from the portal after filling all the details for application and payment of fees. The confirmation page could be downloaded till issue of notification of next examination and thereafter it was removed from the portal due to limitation of space on server.

Therefore, the hard copy of confirmation page of the applicant of July, 2018 is also not available and cannot be downloaded from the application portal at this later stage (i.e. more than 5 years). However, the data of registration is available in the office and as per the data details filled by the candidate are as below:

Sr. No	Description of Information of the Form	Details filled by the candidate
1	Application No.	81237834
2	Candidate Name	Bhuvaneshwari Subramanian
3	Mother's Name	Bhanumati Subramanian
4	Father's Name	S. Sivasubramanian
5	Date of Birth	12.10.1989
6	There were 33 options of different courses were mentioned in the information Bulletin and 34 th option was Other Course.	The candidate has opted Post Graduation Course ' <u>Others</u> '
7	Qualifying Examination	M.Phil
8	Qualifying Exam Status	Passed
9	Qualifying Exam Subject (There were 100 options mentioned in the information Bulletin and 101 st option was	The candidate has opted option ' <u>Others</u> ' The candidate has typed the subject name – ' <u>Planning & Development</u> '

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	<u>'Others')</u>	
10	Institute to qualifying examination	IIT (Bombay)
11	Specialisation	Planning & Development
12	Qualifying exam passing year	2017
13	Qualifying Exam CGPA	9.47

Please inform if any other information is required in the case.

Yours faithfully,

Sd/-
(J.K. Yadav)
Director”

16. Thus, inasmuch as the petitioner had never even claimed eligibility to appear in the UGC-NET Examination for the JRF in Education on the basis of the Master’s degree in Economics held by her and had, instead, claimed eligibility on the basis of the M.Phil. qualification in Planning and Development obtained from the IIT Bombay, the impugned letter dated 7/12 February 2019 proceeds on an incorrect factual premise that the petitioner’s eligibility had been claimed on the basis of her Master’s Degree in Economics and cannot, therefore, sustain. The decision to revisit the entitlement of the petitioner to grant of the JRF, having been taken on the basis of the incorrect assumption that the petitioner had claimed herself to be eligible to undertake the UGC-NET examination on the basis of the Master’s degree in Economics held by her, cannot sustain.

17. For all the above reasons, the impugned order dated 7/12 February 2019 is quashed and set aside.

18. The petitioner would resultantly be eligible and entitled for the

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JRF, as was communicated to her by the final result extracted in para 4 *supra*.

19. If any financial entitlement under the JRF, to which the petitioner was entitled as per the said final result, remains to be paid to the petitioner, said payment would be released to the petitioner within a period of four weeks from today.

20. The writ petition stands allowed in the aforesaid terms with no orders as to costs.

C.HARI SHANKAR, J

FEBRUARY 23, 2024
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