



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

224

CWP-12895-2020

Date of Decision:18.02.2025

DR. ASHOK KUMAR AND ANOTHER**...Petitioner(s)****Versus****KURUKSHETRA UNIVERSITY, KURUKSHETRA****...Respondent(s)****CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present:- Mr. C. R. Dahiya, Advocate, for the petitioners.

Mr. Rajesh K. Sheoran, Advocate and
Mr. Ojasvi Taak, Advocate, for the respondent.**TRIBHUVAN DAHIYA, J. (ORAL)**

The petition has been filed seeking a writ of *mandamus* directing the respondent/University to grant benefit of seniority, pay fixation, etc., to the petitioners from the date other selected candidates in response to the advertisement 03/2013 have been appointed as Assistant Professor.

2. Facts of the case in brief are, the University had issued advertisement 03/2013 for the posts of Assistant Professor in various Departments. Two such posts were advertised for the Department of Music and Dance. The petitioners, who were fully eligible, applied for the same and were interviewed on 23/24.07.2014. The selection committee recommended them for appointment as Assistant Professor. In terms of the University Act, the selection committee's proceedings were required to be placed for approval



before the Executive Council (for short, 'the EC') which was not done without any justifiable reason. The petitioners represented time and again requesting that the proceedings be placed before the EC, but to no effect.

2.1. Petitioner no.2 approached this Court by filing CWP-8109-2015 titled *Harwinder Singh and others v. State of Haryana and another*, seeking a direction to the University to place the selection committee's proceedings before the EC for approval. The petition was disposed of vide order dated 28.11.2015, along with connected petitions, directing the University to place the recommendations of the selection committee before the EC for taking appropriate decision. In compliance, the recommendations were placed before the EC, but the EC did not consider the same and instead decided to re-advertise the posts vide its Resolution dated 25.01.2016.

2.2. Feeling aggrieved, the petitioners approached this Court by filing petitions, CWP-3392-2016 and CWP-3393-2016, which were allowed by a common order dated 11.07.2016, rendered in the connected petition, CWP-3391-2016 titled *Dr. Vijay Pal and another v. Kurukshetra University, Kurukshetra and another*, holding that the University sat over the selection committee's proceedings on account of unfounded and baseless reasons. Accordingly, its decision to re-advertise the posts was declared bad in law, and a direction was issued that the selection committee's proceedings be placed before the EC for appropriate decision to approve or disapprove the same. The relevant paragraphs of the judgment are as under:

There is no dispute as regards the factual position that the petitioners in these four connected petitions had applied for the posts in question and had appeared before a duly constituted Selection Committee. It has also gone uncontroverted that proceedings of the Selection Committee in pursuance to the



interviews conducted were indeed finalized and a ranking list was prepared.

In the facts of the present case, proceedings of the Selection Committee having been furnished in a sealed cover, the respondent University had sat over the matter and not placed the same before the Executive Council. University was attempting to justify its action on the strength of the Model Code of Conduct having been enforced by the State in the first instance and after lifting of the Model Code of Conduct was seeking shelter behind a ban that had been imposed again by the State Government for filling up of the vacant posts. This Court in the judgment and order dated 28.11.2015 while disposing of CWP No.10617 of 2015 and other connected petitions had frowned upon and disapproved of such stand by observing that the University is an autonomous body established under the Kurukshetra University, Kurukshetra Act, 28 of 1956 and it is the Vice-Chancellor of the University being the Principal Executive and Academic Officer of the University and thereby exercises general supervision and control over the affairs of the University. It had further been observed that the State Government has no role in respect of appointments to be made by the University.

It thus clearly emerges that the University without any justifiable basis had not placed the proceedings of the Selection Committee/ranking list before the Executive Council. It was expected by the University to have acted in the matter with a sense of promptitude. The same, however, was not done. Had the University placed the proceedings of the Selection Committee before the Executive Council the rights of the present petitioners in relation to the proceedings of the Selection Committee/ranking list would have crystalized well within the time frame of six months against the backdrop of the decision taken by the Executive Council on 16.11.1963 vide resolution No.26 wherein a period of validity of six months pertaining to the ranking list had been taken.



Under such circumstances, it would not be open for the University to ignore the ranking list/proceedings of a duly constituted Selection Committee in pursuance to interviews having been conducted and in which the petitioners herein had participated. It is held that resolution No.26 passed by the Executive Council on 16.11.1963 with regard to the period of validity of the ranking list would have no applicability in the peculiar facts and circumstances of the present case.

There is yet another aspect in the matter. When the earlier writ petitions i.e. CWP No.10617 of 2015 and other connected petitions were filed and taken up for final disposal on 28.11.2015, such objection as regards the validity of the ranking list having expired was open to have been raised before this Court. Concededly, the same was not done. Finding returned by the Court on 28.11.2015 was that there is no impediment in the respondent University taking a decision regarding approval of the proceedings of the Selection Committee. In other words, the directions were categoric and clear i.e. the matter to be placed before the Executive Council for consideration as regards approval of the proceedings of the Selection Committee. To the contrary, the respondent University has proceeded in a fashion whereby the proceedings contained in a sealed cover have not been opened and rather a modus operandi has been adopted to by pass the directions of this Court contained in the order dated 28.11.2015 and by shifting its stand and taking a view that the ranking list itself prepared by the Selection Committee in pursuance to the interviews wherein the petitioners had participated had outlived its life. Suffice it to observe that to such extent the action of the respondent University can also be seen as contemptuous.

In view of the reasons recorded hereinabove, these writ petitions are allowed. The impugned decision of the Executive Council of the University taken in its meeting dated 25.01.2016 and reiterated in a subsequent meeting dated 31.03.2016 as



regards re-advertising the posts in question and to which the petitioners had applied for and had appeared in the interviews is held to be bad in law.

Directions are issued for the proceedings of the Selection Committee in relation to the posts in question to be placed before the Executive Council for a decision to be taken thereupon as regards approval or otherwise on merits.

2.3. In compliance of the directions issued by this Court, vide judgment dated 11.07.2016, the EC finally considered and approved the recommendations of the selection committee on 24.08.2016, and the petitioners were appointed as Assistant Professor in the Department vide letters dated 24.08.2016, Annexures P-5 and P-6, respectively.

2.4. It is pertinent to mention here that similarly placed candidates who were selected as Assistant Professor in other Departments along with the petitioners in response to the aforementioned advertisement, had been appointed earlier; for instance, Dr. Vijender Singh in the Department of History, was offered the appointment vide letter dated 01.08.2014. Interviews for the post of Assistant Professor in History were conducted on 09/10.07.2014, and the selection committee's proceedings were approved by the EC in its meeting held on 28.07.2014.

2.5. Since benefit of service was not given to the petitioners from the date other selected candidates pursuant to the advertisement in question had joined as Assistant Professor in the University, they made representation seeking due service benefits from that date, but their claim was not acceded to. It forced the petitioners to approach this Court yet again by filing the instant petition.



3. In this factual background, learned counsel for the petitioners has contended that they had been recommended for appointment by the Selection Committee on 23/24.07.2014, but the recommendations were not placed before the EC for approval despite the directions issued by this Court vide order dated 28.11.2015. It was only in compliance with the directions subsequently issued by this Court vide order dated 11.07.2016, that their cases were considered and approved. Therefore, they cannot be denied the due service benefits of seniority and pay fixation from the date other selected candidates have been appointed as Assistant Professor. The petitioners' rights have been gravely prejudiced on that account, and having been forced to approach this Court time and again for the same relief, they have been harassed and humiliated.

4. *Per contra*, learned counsel for the respondent/University contends that the petitioners are not entitled to the benefit of past two years of service from the date other selected candidates have been appointed. The selection committee's proceedings in their cases were approved by the EC only on 24.08.2016, and they could not have been appointed before that date. And the University is not to be blamed for the delay in approving the recommendations. He has relied upon the following stand taken in the written statement in this regard:

Dr. Ashok Kumar S/o Sh. Narayan Dutt and Dr. Harwinder applied for the post of Assistant Professor (Vocal), Dept. of Music & Dance vide Advt. No. 3/2013. The meeting of the Selection Committee for the post of Assistant Professor 2 (Vocal-1 (temporary but likely to continue), Instrumental-1) in the Dept. of Music & Dance were held 23.07.2014 & 24.07.2014 and the proceedings were valid for six months i.e. upto



22.01.2015 & 23.01.2015. But the proceedings of the Selection Committee dated 23/24.07.2014 could not be placed before the Executive Council due to short period since there was only one working day between 24 July 2014 to 28 July 2014 on which date E.C Meeting was fixed. Thereafter same was taken on meeting of E.C due to imposition of Election Code of Conduct in the State of Haryana. After lifting of Election Code of conduct, State Govt. has imposed ban on filling up the vacant posts. The Additional Chief Secretary to Govt. of Haryana, Finance Department vide letter dated 15.02.2016 has conveyed that the posts lying vacant for more than two years should not be filled up without prior approval of the Finance Department.

Thereafter in compliance of Hon'ble court order passed in CWP 3391/2016 and connected matters and on the recommendation of the Selection Committee, Executive Council vide its resolution No. 53(2) and 53(3) dated 24.08.2016 has approved the appointments of Dr. Ashok Kumar as Assistant Professor in the specialization of vocal (temporary likely to continue) and Dr. Harwinder Singh as Assistant Professor in the Specialization of instrumentation. Appointment was issued to Dr. Harwinder Singh S/o Sh. Ajmer Singh vide letter No. ET-3/16/5646 dated 24.08.2016 and Dr. Harwinder Singh joined as Assistant Professor (Instrumentation), Dept. of Music & Dance w.e.f. 26.08.2016. Dr. Ashok Kumar joined as Assistant Professor (Vocal), Dept. of Music & Dance w.e.f. 26.8.2016.

5. Submissions made by learned counsel for the parties have been considered.

6. It is admitted position on record that the petitioners applied for the posts of Assistant Professor in the University in response to advertisement 03/2013, whereby such posts in other Departments had also been advertised which included the Department of History. The petitioners were interviewed



by the duly constituted selection committee on 23/24.07.2014; however, its recommendations were not placed before the EC for approval on unfounded and baseless grounds. The justification put forth by the University for not doing so, that is, shortage of time, imposition of Model Code of Conduct due to election to the State Legislative Assembly, and ban on appointments imposed by the Government, etc., has already been rejected as indefensible by this Court, vide judgment dated 11.07.2016, as reproduced hereinabove. It also remains undisputed that other selected candidates pursuant to the advertisement in question have been appointed as Assistant Professor in the University, viz., in the Department of History vide letter dated 01.08.2014, since recommendations of the selection committee in their cases had been placed before the EC for approval in its meeting held on 28.07.2014. Interviews for the posts the petitioners had applied against, had already been held prior thereto on 23/24.07.2014, and the selection committee's recommendations in their cases could also have been placed before the EC for approval in its meeting held on 28.07.2014. It was not done without any valid reason, and the petitioners were forced to approach this Court seeking directions to the University to get approval of selection committee's recommendations from the EC for the posts they had applied against. Despite the directions having been issued by this Court vide order dated 28.11.2015, the University did not take the approval. The petitioners had to approach this Court again, and the University was directed once again, vide order dated 11.07.2016, to place the recommendations before the EC for approval or otherwise. While so directing, the Court rejected the reasons put forth by the University for not placing the recommendations before the EC. In this backdrop, it becomes clear that no one except the University is to be blamed



for the delay in EC approval of the selection committee's recommendations *qua* the petitioners. Had it not been so, the petitioners would also have been appointed along with other selected candidates for the posts of Assistant Professor. Accordingly, there is no justification in denying due benefits to them from the date other selected candidates joined the University service after being selected pursuant to the advertisement in question.

7. As per averments, the petitioners have claimed the benefit of notional promotion with effect from the date appointment of Assistant Professor Vijender Singh was approved, i.e., 28.07.2014, since he had also been selected pursuant to the advertisement in question. The averment has been specifically denied by the University stating that the petitioners cannot seek parity with Assistant Professor(s) of another Department(s), appointed on different date(s). It is not in dispute that seniority of Assistant Professors for further promotion and other service benefits is to be determined within the Department. Accordingly, the petitioners cannot claim seniority and other service benefits from the date of appointment of an Assistant Professor in another Department. It is not their case that anyone else has been appointed as Assistant Professor in the Department of Music and Dance in response to the instant advertisement prior to their appointment. At the same time, the petitioners cannot be denied the benefits to which the teachers are entitled to on the basis of their seniority in the University, irrespective of intra-departmental seniority.

8. The writ petition is accordingly allowed and the respondents are directed to consider the petitioners entitled to all admissible benefits on the basis of intra-University seniority of teachers with effect from 01.08.2014, wherefrom other selected teachers pursuant to the advertisement in question



joined service. Necessary orders to that effect will be passed by the competent authority within two weeks of receiving a certified copy of this order. The petitioners are also held entitled to costs of litigation which are quantified as ₹50,000 to each of them; the same shall also be paid by the University within the period stipulated above.

(TRIBHUVAN DAHIYA)
JUDGE

18.02.2025
Ad/ Maninder

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>