



2025:DHC:1771-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 21 February, 2025

Judgment pronounced on: 20 March, 2025

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LPA 731/2023, CM APPL. 56902/2023 (stay) & CM APPL.
56904/2023 (Delay 150 days in filing)

DELHI TECHNOLOGICAL UNIVERSITYAppellant

Through: Mrs. Avnish Ahlawat,
Standing Counsel, DTU
with Mr. Nitesh Kumar
Singh, Ms. Laavanya
Kaushik, Ms. Aliza Alam
and Mr. Mohnish
Sehrawat, Advs.

versus

DR JAI GOPAL SHARMARespondent

Through: Mr. Mohinder J.S. Rupal,
Mr. Hardik Rupal, Ms.
Aishwarya Malhotra and
Mr. Neetish Pomchauri,
Advs.

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LPA 733/2023, CM APPL. 57065/2023 (stay) CM APPL.
57067/2023 (Delay 150 days in filing)

**DELHI TECHNOLOGICAL UNIVERSITY
AND ANR.**Appellants

Through: Mrs. Avnish Ahlawat,
Standing Counsel, DTU
with Mr. Nitesh Kumar
Singh, Ms. Laavanya
Kaushik, Ms. Aliza Alam
and Mr. Mohnish
Sehrawat, Advs.

LPA 731/2023 & 733/2023

Page 1 of 21

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BHATIA
Signing Date: 21/03/2025
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2025:DHC:1771-DB



versus

DR PRAVIR KUMAR

.....Respondent

Through: Mr. S. Sunil, Adv.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Appeals have been filed by the Delhi Technological University (erstwhile Delhi College of Engineering) assailing the common Judgment dated 05 April 2023 of the learned Single Judge passed in W.P.(C) 2239/2016 and W.P.(C) 2650/2016.
2. By the impugned Judgment, the learned Single Judge has set aside the termination orders dated 29.02.2016 and 04.03.2016 along with the preceding **Show Cause Notices**¹ as well as the findings of the Narayanswami Inquiry Report to the extent that it pertained to the Respondents herein.
3. The Respondents were also held to be entitled to all consequential benefits that would be, of necessity, following the setting aside of the termination orders, *inter alia*, continuity of service.
4. The starting point of the entire dispute before us appears to be the advertisement dated 03.12.2011 for 34 Professorial posts and 60 Associate Professorial posts issued by the Appellant. Both the Respondents herein responded to the advertisement and applied for the post of Associate Professor (Bio-Technology).

¹ SCNs



2025:DHC:1771-DB



5. A perusal of the advertisement would reveal that there was a generic stipulation as to “essential qualification” in respect of positions in all the engineering disciplines that were advertised. It is relevant to state that there were fourteen such disciplines to which the advertisement pertained.

6. The said generic “qualifications and experience” that were stipulated were also further qualified by certain notes and special notes. The special notes, in particular, set out specific stipulations *qua* the qualifications for each of the specialized disciplines. Almost every discipline mentioned in the advertisement had a separate special note for the particular discipline.

7. For the present purposes, we, in particular, need only to advert to the special note no. (ix) which reads as follows:

“(ix) For the Discipline of Bio-Technology, candidates possessing B.Tech./ BE and M.Tech/ ME Degree in Bio-Informatics and Bio-Chemical Engineering are eligible. The candidates possessing Master of Science in Applied Bio-logical sciences/Zoology/Botany/Microbiology/Genetics and Ph.D in Applied Biological Sciences are also eligible.”

8. From a reading of the advertisement, it becomes quite obvious that the intent of the special note was to provide the qualifications of a particular discipline, and in this particular case, for the discipline of Bio-technology.

9. It is the Appellant’s contention that the learned Single Judge has not considered the eligibility criteria as set out in the advertisement in the proper manner and they seek to re-assert their contentions as raised before the learned Single Judge. We note that the learned Single Judge has minutely examined various aspects of the matter at hand and analysed the same in the following manner:



2025:DHC:1771-DB



“25. I have heard the learned counsels for the parties and examined their contentions.

26. Respondent herein (erstwhile Delhi College of Engineering) is the Delhi Technological University established by the Government of NCT of Delhi vide First Statutes. Under Clause 10 of First Statutes, ‘Vice Chancellor of the University’ is defined as Scholar of Eminence in one of the areas of applied sciences, engineering and management, having administrative experience in a PG degree level institution of higher learning and is appointed by the Chancellor. By virtue of Clause 10(3), Vice Chancellor is the Principal Academic and Executive Officer of the University and exercises supervision and control over its affairs and gives effect to the decisions of all Authorities of the University. ‘Board of Management’ has a power of management in administration of the revenues and properties of the University in addition to make appointments of Professors, Associate Professors, Assistant Professors and other Teachers and academic staff on recommendations of the Selection Committees. ‘Selection Committees’ have the function and power of making recommendations for the said appointments to the Board of Management and their constitution is laid down in Clause 16(2) of the First Statutes.

27. Indisputably, University advertised 60 posts of Associate Professors for filling up posts in various departments, including 4 posts in the Department of Bio-Technology. The essential qualification prescribed in the Advertisement is as follows:-

“Qualifications & Experience:

	<i>Professor</i>	<i>Associate Professor</i>
<i>Essential Qualification</i>	<i>Ph.D in the relevant area along with Ist class in B. Tech/BE and M.Tech/ME degrees.</i>	<i>Ph.D in the relevant area along with Ist class in B. Tech/BE and M.Tech/ME degrees.</i>
<i>Relevant Experience</i>	<i>06 years as Associate Professor or equivalent with AGP Rs. 9,000/- and above in PB-4</i>	<i>06 years as Associate Professor or equivalent with AGP Rs. 7,000/- and above in PB-3 or 8 years of service as Assistant Professor with the</i>



2025:DHC:1771-DB



		AGP of Rs. 6,000/- in the PB-3
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28. Additionally, in the Advertisement itself, the University had incorporated 'Notes' and a 'Special Note' and Special Note (ix) prescribed that 'candidates possessing Master of Science, in Applied Bio-logical Sciences/ Zoology/ Botany/ Microbiology /Genetics and Ph.D. in Applied Biological Sciences are also eligible.'

29. Finding themselves eligible under the essential qualifications prescribed in Special Note (ix), Petitioners applied for the post of Associate Professor in the Bio-Technology discipline and were shortlisted after scrutiny of their applications. Selection Committee recommended their names for appointment after interview and the Board of Management approved the recommendations. It is undisputed that the Petitioners were thereafter appointed and rendered services till the passing of the impugned orders, whereby their appointments have been held as void *ab initio*.

30. At this stage, it is pertinent to mention that when W.P. (C) 2239/2016 was listed on 30.03.2016, Court noted the rival contentions of the parties and stayed the operation of the impugned order dated 29.02.2016 and further directing that status quo shall be maintained with regard to the employment of the Petitioner. *Prima facie* opinion of the Court was that nothing prevented the University from specifically providing in the Advertisement that the applicants were required to possess 1st class UG degrees, as provided for similar positions in Applied Sciences and Humanities. Based on this interim order, the Court in W.P. (C) 2650/2016 also stayed the operation of the impugned order dated 04.03.2016 on 01.04.2016. The interim orders are operating till date and Petitioners have continued to work, as apprised during the course of hearing.

31. The primordial issue that arises for consideration before this Court is whether the Petitioners fulfil the educational qualifications required for the post of Associate Professor in Bio-Technology as prescribed in the Advertisement. Both parties naturally have a different stand on this issue. While Petitioners contend that they met the requisite qualifications by virtue of Special Note (ix), which did not require a 1st class UG degree, University adopts a contrary stand. There is no contest by the University that the Petitioners meet the qualifications explicitly stated in the Special Note (ix) and the only bone of contention is '1st class' UG degree, which admittedly none of the two Petitioners possess. The controversy thus narrows down to whether 1st class UG degree was



2025:DHC:1771-DB



an essential qualification for the candidates applying under Special Note (ix), incorporated in the Advertisement.

32. A plain reading of the Advertisement shows that the essential qualification for Associate Professor in Bio-Technology discipline was 'Ph.D. in the relevant area along with 1st class in B.Tech./B.E. and M.Tech./M.E. degrees'. Clearly, Petitioners do not fulfil this pre-requisite and were ineligible to apply if the Advertisement was restricted to this qualification. However, in the Advertisement itself, University incorporated a 'Special Note' pertaining to other disciplines such as Mechanical/Civil/Computer Engineering etc. including Bio-Technology and by virtue of this Note, the pool of eligibility with respect to educational qualifications was enlarged by including qualifications in other fields over and above the degrees stipulated in the essential qualification column of the Advertisement. Clause (ix) of the Special Note provided that candidates possessing Master of Science in Applied Biological Sciences/Zoology/Botany/Microbiology/Genetics and Ph.D. in Applied Biological Sciences were 'also eligible'.

33. Petitioners do not even contest the position that they were ineligible under the essential qualification column of the Advertisement and it was only under Special Note (ix), inserted in the Advertisement, which prompted them to apply. The submission is that had the University intended 1st Class UG degree to be an essential qualification under Special Note (ix), the same should have been specifically prescribed in the Advertisement. However, Special Note (ix) does not even remotely refer to a UG degree, least of requirement of possessing 1st class and in absence of such a stipulation, University is proscribed from taking a stand that Petitioners are ineligible for lack of 1st class UG degrees.

34. This Court entirely agrees with the stand of the Petitioners. Reading clause (ix) of the Special Note leaves no doubt that the prescribed educational qualification was Master of Science in Applied Bio-logical Sciences/Zoology/Botany/Microbiology/Genetics and Ph.D. in Applied Biological Sciences and there was no mention of 1st class at UG level. Therefore, it is legally impermissible for the University to read into the Advertisement a qualification which is not prescribed specifically as an essential qualification. While incorporating the Special Note, University had consciously prescribed the requisite qualifications in Masters and Ph.D. and nothing prevented it from prescribing that at the UG level, a 1st class degree would be essential. Essential qualifications for appointments and recruitments have to be explicitly stipulated in the Advertisements and cannot be implied or left to imagination.



35. Without burdening this judgment with several precedents on the issue, relevant would be in this regard to allude to a judgment of the Supreme Court in *State of Uttarakhand and Others v. Deep Chandra Tewari and Another*, (2013) 15 SCC 557, wherein the sanctity and importance of prescribing qualifications in an Advertisement is highlighted by the Supreme Court albeit in a slightly different context. Facts of the case before the Supreme Court were that the Appellants therein had issued an Advertisement inviting applications for appointment as Assistant Teachers and the educational qualifications required were Bachelor's degree in any two subjects out of Geography, Economics, Political Science and History. Respondents, who possessed the qualification of B.Ed. with specialization in vocational education, applied against the said Advertisement. As the Respondents did not hold a degree required under the Advertisement, their applications were not considered. The High Court allowed the writ petition and directed the Appellants to process the applications. The contention of the Appellants before the Supreme Court was that there is a marked difference between B.Ed. degree and B.Ed. with specialization in vocational education and the candidates were required to apply strictly in accordance with the terms of the Advertisement. On behalf of the Respondents, it was urged that there was hardly any difference between B.Ed. simpliciter and a degree with specialization in vocational education. Agreeing with the Appellants, the Supreme Court observed that when an Advertisement simply says 'B.Ed. degree', it reflects what the Appointing Authority meant and what is meant is said, written and shown in the Advertisement. The Supreme Court further observed that on going through the Notification in its entirety, it was evident that wherever any particular specialization was required, it was specifically mentioned in the Advertisement, for example, for the post of Assistant Teacher (Drawing), the requirement was Bachelor's degree in instrumental or vocal music for Assistant Teacher (Music), Bachelor's degree with Home Science or Home Arts for Assistant Teacher (Home Science). Therefore, if B.Ed. with specialization in vocational education, was the required qualification, the Advertisement would have specifically so mentioned. For ready reference, paras 9 and 10 are extracted herein:-

"9. We notice that the appointment of Assistant Teacher LT Grade is made to impart education to the students in schools on the subjects which are being sanctioned in the schools. When the advertisement simply says "BED degree", it reveals what the appointing authority meant and what is meant is said, written and shown in the advertisement. If we go through para 5 of the notification



in its entirety, we find wherever specialisation is required, it has been specifically mentioned in the advertisement. For example, for appointment to the post of Assistant Teacher Drawing, the requirement is Bachelor degree in BFA from any university established by law in India, for the post of Assistant Teacher Music, it has been stated that the requirement is Bachelor degree in instrumental or vocal in music from any university established by law in India. For the post of Assistant Teacher Home Science, it is stated the requirement is Bachelor degree with Home Arts or Home Science from any University established by law in India and for the post of Assistant Teacher Commerce, the requirement is Bachelor degree in Commerce from any university established by law in India. For the post of Assistant Teacher Home Science, it is stated the requirement is Bachelor degree with Home Arts or Home Science from any University established by law in India and for the post of Assistant Teacher Commerce, the requirement is Bachelor degree in Commerce from any university established by law in India.

10. We notice, however, for the post in question i.e. Assistant Teacher (General), the qualification is simply Bachelor's degree in any of two subjects, Geography, Economics, Political Science and History from any university established by law in India, or LT Diploma from any training institution/degree college. If BEd with specialisation in vocational education was the required qualification, then it would have been specifically mentioned in the notification, which has not been done. Consequently, we have to take it that the BEd degree mentioned in the Advertisement is BEd degree simpliciter and not BEd with specialisation in vocational education. The post to be filled up i.e. Assistant Teacher (General) nowhere indicates that for the purpose of appointment to the said post, specialisation in vocational education is a necessary requirement."

36. The stand of the University as discernible from the show cause notices, Report of Narayanaswami Committee as well as the counter affidavits filed before this Court including the arguments canvassed during the course of hearing, is that Petitioners are ineligible for appointment as they do not possess 1st class UG degree. To support the plea, an ingenuous ground is created by the University that Special Note is to be read in consonance with the stipulations in the essential qualification column and the



2025:DHC:1771-DB



prescription of 1st class UG therein i.e. for B.Tech./B.E. would give colour to the requirements pertaining to educational qualifications under the Special Note. Howsoever ingenuous the ground may be, in my view, the same does not aid the University to defend the impugned orders. Essential qualifications required as eligibility conditions for appointments /recruitments have to be specifically prescribed in the Advertisements so that aspiring candidates are aware of the qualifications they are required to possess before applying. Eligibility conditions cannot be left to imagination or interpretation or read into as implied conditions. It is settled law that an Advertisement should clearly and unequivocally specify the terms and conditions of employment and there cannot be uncertainty or ambiguity. [*Ref. Renu and Others v. District and Sessions Judge, Tis Hazari Courts, Delhi and Another, (2014) 14 SCC 50*]. There is, to my mind, a basic fallacy in the argument of the University that the essential qualification prescribed for the post of Associate Professor in Bio-Technology required 1st class in 'UG' and 'PG' degrees. Firstly, even in the column prescribing essential qualifications the requirement is 1st class in B.Tech./B.E. and M.Tech./M.E. degrees only. This Court is unable to find any general stipulation for the post in question or the Advertisement, which mandates 1st class in UG degrees for all disciplines. This is fortified by reading the entire Advertisement, which makes it palpably evident that wherever the intent was to prescribe 1st class at UG level, it was so stated specifically, as in the case of Associate Professor in Applied Sciences and Humanities. Petitioners are right in contending that the Special Note (ix) was incorporated to carve out from the 'essential qualification' column in the substantive part of the Advertisement and provide a separate and larger pool of eligible candidates by permitting those who had Ph.D. and Masters degrees outside the Engineering and Technical degrees i.e B.Tech./B.E. and M.Tech./M.E. to apply and with no stipulation of 1st class at UG level.

37. In order to support its case, an argument was also canvassed on behalf of the University that as a Technical Institute of great repute, high standards of education are required to be maintained and therefore, the University cannot appoint Assistant Professors with 2nd class degrees at UG/PG levels. It needs no reiteration that standards of educational institutions cannot and should not be compromised and it was certainly open to the University to prescribe 1st class UG degree as an essential qualification in the Special Note. However, having chosen not to stipulate this as an eligibility criteria, it is not open to argue that such a condition must be imported or read into the essential qualification column or that the Special Note would take colour from the prescribed qualifications relating to B.Tech./B.E. degrees. Accepting this



contention of the University would lead to a very dangerous and unwarranted consequence, where even after prescribing eligibility conditions in any recruitment Advertisement, it would be open to an employer/candidate to read into Advertisements conditions on mere presumptions and conjectures. It bears repetition to state that had the University intended or desired to insist on 1st class UG degree, there was nothing preventing the University from prescribing the said qualification as an essential qualification under the Special Note. The intent of the University at that stage of there being no requirement of 1st class UG degree is conspicuous by the absence of such a stipulation.

38. Much stress was laid by the learned counsel for the University on the report of the Sh. R. Narayanaswami Committee, constituted to look into the complaints against the appointments initiated by the then Vice Chancellor, the trigger for which were the appointments made in the years 2012 and 2013. The Inquiry Report has been appended to the counter affidavit and with the assistance of the counsel for the University, the Court has closely and carefully perused the same. Chapter VI of the Report deals with 'identification of erroneously selected candidates and incorrectly interviewed candidates who did not have essential qualifications or relevant experience (or both)'. As per the Report, Committee went through the applications and in respect of the Petitioners noted that they did not meet the essential qualifications and ought not to have been called for the interview. Relevant part of the Report is as under:-

"6.2.(2) Inquiry Committee's Scrutiny of Applications selected candidates- RESULT

The Inquiry Committee went through the applications of all the 38 selected candidates and examined the same in relation to prescribed essential qualifications in the Recruitment Regulations as advertised on 3rd December, 2011 (a copy of which is placed at Annexure-9). Observations of the Inquiry Committee are that the following selected candidates to whom offer letters were sent by DTU, actually did not meet either the Essential Qualifications, or Relevant Experience criteria or both and ought not to have even been called for interview. This is indicated categorywise (Professor or Associate Professor)

S. No.	Name	Selected as	Sr.No. in subpara 6.2 (A)	Reasons for disqualification



2025:DHC:1771-DB



...	.		...	...
5.	<i>Dr. Pravir Kumar</i>	<i>Associate Prof. (Biotechnology)</i>	<i>Subpara 6.2(B) No. 25</i>	<i>He only had a II division at the BSc level. The prescribed Essential qualifications as advertised require a 1st division at both the UG and PG levels. (In fact the Scrutiny Committee pointed out this deficiency and did not recommend his case for interview. However he was called at the instance of the Vice Chancellor and selected. <u>The Inquiry Committee is of the view that he should have been called for interview.</u> <u>Dr. Pravir Kumar HAS JOINED.</u></i>
6.	<i>Dr. Jaigo pal Sharma</i>	<i>Associate Prof. (Biotechnology)</i>	<i>Subpara 6.2(B) No. 12</i>	<i>He had a 2nd division at the B.Sc. (Zoo) level. The prescribed essential qualifications and duly advertised require a 1st division at both the UG and PG</i>



				<i>levels. In fact even the Scrutiny Committee pointed out this deficiency. However he was called at the instance of the Vice Chancellor, and selected. <u>The Inquiry Committee is of the view that he should not have been called for interview. Dr. Jaigopal Sharma HAS JOINED.</u></i>
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The Inquiry Committee finds it unacceptable that prescribed essential qualifications and relevant experience as advertised should have been selectively relaxed in the aforementioned cases, whereby not only have these candidates been irregularly called for interview but also selected. Of these Dr. Pushpender Singh, Assoc. Prof. (Mech. Engg.), Dr. C.P. Singh, Assoc Prof (Applied Maths), Dr. Pravir Kumar, Assoc. Prof. (Biotechnology) and Dr. Jaigopal Sharma Assoc. Prof. (Biotechnology) have actually joined DTU and continue to serve.”

39. The findings of the Committee against the Petitioners are primarily based on lacking the prescribed essential qualifications, which according to the Committee required a 1st class at both UG and PG levels. The Committee notes that the Scrutiny Committee had pointed out the deficiency and did not recommend their case for interview, however, they were called at the instance of the Vice Chancellor and selected. Needless to state that the Committee Members committed a grave error in reading into the Advertisement, the requirement of 1st class UG degree, which does not exist in the Advertisement in the Special Note (ix), under which the Petitioners were eligible and shortlisted. Since the Committee posed itself a wrong question and treaded on a wrong path, it reached a wrong destination.



40. There is also merit in the submission of the Petitioners that the impugned orders have been passed entirely on the basis of the Narayanaswami Report, which is wholly erroneous, since this Court had in its order dated 12.06.2015 in W.P.(C) 5984/2015 had noticed that the findings of the Report could by no means be construed as final opinion of the University and the matter had to be judged after reply to the show-cause notice was filed. Reading of the impugned orders shows a total non-application of mind by the concerned Authority. The orders are in three parts. The first part contains the narrative of the facts as mentioned in the Inquiry Report, after which there is a reference to the litigation between the parties in this Court and this is followed by the conclusion that the appointments of the Petitioners are void *ab initio*. There is nothing in the order to show that the matter was independently examined by the University. In fact, there is no deliberation/consideration in the impugned orders even of the issues raised by the Petitioners in their defence, in their respective replies to the show-cause notices. Therefore, in essence, the Inquiry Report has been taken as a final opinion, pre-judging the issue against the Petitioners, contrary to the observations of the Court, aforementioned.

41. University has attempted to oversimplify the procedure for selection of the Petitioners which is also evident from the Inquiry Committee's Report that the scrutiny at the initial stage being erroneous the whole procedure was vitiated. This stand completely overlooks the rigorous process of selection undergone by the Petitioners with experts in the field involved at every step. The Selection Committee which recommended the Petitioners for appointment comprised of the members in consonance with Clause 16(2) of the First Statutes and as averred in the petitions were experts nominated from the panel of 7 names approved by the Academic Council for each department and the list of experts was approved by the Hon'ble Lieutenant Governor of Delhi in his capacity as Chancellor of the University. The list of experts comprised of eminent senior faculty not below the rank of Professors from IITs, JNU, BHU, DU, Jamia Millia, NPL, DRDO and other renowned National Institutions/Research and Development Organisations. All members of the Committees were apprised of the qualifications advertised and were also provided with the biodatas of the candidates. The candidates were interviewed and after due deliberation and considerations, the recommendations were sent to the Board of Management. The Board unanimously approved the recommendations. Under Clause 10 of the First Statutes, the Board of Management has the power of making appointments of Professors, Associate Professors etc. on the recommendations of the Selection Committee constituted for the purpose. It is not the stand of the University that any of the



members of the Selection Committee or the Board of Management were ineligible or disqualified or were favourably inclined to the Petitioners. None of the averments in the writ petition to this effect have been traversed by the University in the counter affidavits. The appointments have been made following the due process in consonance with the First Statutes and warrant no interference.

42. At this stage, it needs to be noted that allegations had been levelled against the then Vice Chancellor for having committed illegalities/irregularities in the recruitment process. While this issue may not be by itself very relevant to the present case of the Petitioners which clearly stands on its own foundation, however, the developments that have taken place during the pendency of this case may only add strength to the case of the Petitioners that they were eligible as per the prescribed essential qualifications in Special Note (ix) of the Advertisement and their selection cannot be attributed to any alleged illegality of the Vice Chancellor. During the course of arguments, the Court was apprised that an FIR had been filed against Prof. P.B. Sharma for offences under Section 13 of the Prevention of Corruption Act, 1988 and after due investigation, CBI had furnished a closure report. The Trial Court declined to accept the closure report and the order was challenged by Prof. P.B. Sharma before this Court in ***Prf. P.B. Sharma v. Central Bureau of Investigation (CBI), 2019 SCC OnLine Del 8068***, where this Court held as under:-

“10. Upon hearing and on perusal of impugned order, closure report and the decisions cited, I find that the exercise of the powers by petitioner- Prof. P.B. Sharma was in terms of the Provisions of Delhi Technology University Act, 2009 and the recommendations made by him were duly put up before the Board of Management in its seventh meeting held on 24th May, 2012, which had duly approved the recommendations made by the Selection Committee for appointment on the posts in question. A bare perusal of the closure report reveals that the allegations levelled against petitioners have been minutely scrutinized and thereafter, it is concluded that the view of Prof. P.B. Sharma was right about the appointments being made on the posts in question.

11. Trial court in the impugned order has disagreed with the closure report, while over ruling with the Selection Committee and the disagreement, according to this Court, is without any justification. Relaxation of qualification has been granted in terms of the applicable Rules and Regulations and on the recommendation made by the



Screening Committee as well as Selection Committee. The Supreme Court in C.K. Jaffer Sharief (Supra) has clarified that even if the action of the authorities concerned is contrary to departmental norms, still it would not justify criminal prosecution, unless it is actuated by dishonest intention to obtain an undue pecuniary advantage as dishonest intention "is the gist of the offence under Section 13(1)(d) of Prevention Corruption Act".

12. In the instant case, I find that no dishonest intention can be attributed to any of the petitioners nor the trial court has done so. Applying the above-referred dictum of Supreme Court in C.K. Jaffer Sharief (Supra) to the facts of the instant case, I find that the impugned order cannot be sustained and is accordingly set aside. The closure report filed by respondent-CBI is hereby accepted."

43. The significance of the observations of the Court in para 10 aforementioned is that not only has the Court found that the exercise of powers by the Vice Chancellor were in terms of provisions of the First Statutes and the recommendations were put up before the Board of Management in its meeting held on 24.05.2012 and duly approved by the Board, but also that the closure report wherein the allegations were minutely scrutinized revealed that the allegations were wrong and that the Vice Chancellor was right in making the appointments in question. Therefore, looked at holistically it cannot be said that the Petitioners did not fulfil the essential qualifications prescribed in Special Note (ix) in the Advertisement dated 03.12.2011 and therefore, it is held that the impugned orders dated 29.02.2016 in W.P.(C) 2239/2016 and dated 04.03.2016 in W.P.(C) 2650/2016 declaring the appointments of the Petitioners void *ab initio* are illegal and cannot be sustained in law.

44. Dr. Sharma has taken an additional point in W.P. (C) 2650/2016 to challenge the impugned order and the show cause notice that 4 out of 5 members of the Inquiry Committee constituted by the University to give a personal hearing to the Petitioner were signatories to the Resolution dated 30.05.2011 against the erstwhile Vice Chancellor and had vested interests in quashing the appointments of the Petitioners. The argument is based on an alleged bias of the said Inquiry Committee. Factually, the composition of the Committee is not denied by the University and even the response to the allegation of bias is vague. While this Court is not delving into the issue of bias as even otherwise the impugned orders are unsustainable in law but it does need a mention that propriety demanded that the Committee constituted to



give a personal hearing to the Petitioners should have been constituted by people who were not part of so-called tirade against the erstwhile Vice Chancellor and holding a flag for quashing the appointments in question. As was rightly said by Lord Hewart in the case of ***Rex v. Sussex Justices, (1924) 1 KB 256***, that 'Justice must not only be done, but must also be seen to be done'. The Court had remanded the matter to the University for giving personal hearing to the Petitioner, reposing faith in the Institution and the personal hearing should have been free from any biases.

45. Additionally, Petitioners are right in pointing out that when the Advertisement was published they were already working and had the University specifically prescribed 1st class at UG level in the Special Note (ix), they may not have applied and left their lucrative jobs. Dr. Pravir Kumar was working as Associate Professor and Assistant Director at VIT University, Tamil Nadu for the last 03 years and Dr. Jai Gopal Sharma was working as Scientist-C with the Ministry of Earth Sciences and on account of the offer letter issued by the University, his lien was terminated with the Ministry w.e.f. 15.06.2020. Petitioners have also stressed on their CVs which are appended with the petition and by way of illustration it was pointed out that Dr. Jai Gopal Sharma has successfully supervised several Ph.D. students and 3 postdoctoral fellows. He has been conferred with various awards including 'Commendable Research Excellence Award2021' by the University for 05 research papers on 03.03.2022. Since the Petitioners are working under the interim orders of this Court, it is further stated that he is even currently supervising few Ph.D. students. In June, 2015, Dr. Sharma has been promoted as Professor through an Expert Selection Committee and has served as Head of Department of Bio-Technology from 2018-2020 as well as Chairman of Cultural Council, Founder Chairman of National Service Scheme and since February, 2021, he is serving as Faculty Coordinator with the University. The contention, pithily put, is that at this stage and age of life their services should not be terminated as they are not at fault and were selected through a regular and rigorous process of selection. Petitioners have rendered dedicated service to the University with no complaints or blemish and have already suffered mental trauma due to the illegal and *mala fide* acts of the University, actuated by the vested interests of a handful of people, who had personal scores to settle with the then Vice-Chancellor.

46. Having carefully considered this submission, Court finds merit in the plea that the status quo should not be disturbed at this stage, particularly when the Court has found the terminations to be bad in law. Petitioners were doing well for themselves when they were offered appointments by the University and are today overage for



seeking employment elsewhere. In fact to say the least, University has been extremely unfair to the Petitioners. Having appointed them as per the prescribed qualifications in the Advertisement, Petitioners have been unnecessarily constrained to litigate and have suffered financially and mentally on this score. This is not to overshadow the finding of the Court that the impugned action is illegal and arbitrary and is only an added reason to quash the impugned orders of termination.

47. Learned counsel for the University relied on the judgment of the Supreme Court in ***Maharashtra Public Service Commission (supra)*** and of this Court in ***Dr. Ashutosh Mishra (supra)***, for the proposition that it is for the employer to prescribe the qualifications and eligibility conditions for appointment. Indisputably, this is the binding dicta of the Supreme Court and this is the contention of the Petitioners that it was open to the University to prescribe 1st class UG degree as essential qualification, if they so intended. There is no contest to the power or prerogative of the University to do so. However, as aforementioned, having failed to prescribe an essential qualification in the Advertisement, it is not open to read an additional qualification by implication and thus the judgements would not help the University.

48. Accordingly, for all the aforesaid reasons, the impugned orders dated 29.02.2016 and 04.03.2016 are set aside along with the show cause notices that preceded the said orders as well as the findings of the Narayanaswami Inquiry Report qua the Petitioners herein and it is held that the appointments of the Petitioners are legal and valid. Interim orders dated 30.03.2016 in W.P. (C) 2239/2016 and 01.04.2016 in W.P. (C) 2650/2016 are made absolute. Needless to state that Petitioners shall be entitled to all consequential benefits flowing out of the setting aside of the impugned orders, including continuity of service.

49. Insofar as Petitioner in W.P. (C) 2650/2016 is concerned, it is averred by him that he was promoted in the year 2015 as a Professor but neither side has placed on record the status of his confirmation. This aspect of the matter is thus left open for the University to examine and the Petitioner to take recourse to appropriate remedies, if so advised.

50. Writ petitions are allowed, with cost of Rs.25,000/- each payable to the Petitioners within a period of six weeks from today.”

10. As can be seen from the extracted portion of the judgment, the learned Single Judge has elaborated upon the advertisement and the



special note and held that the qualification as prescribed in the special note was explicit and had to be taken on its expressed terms without reading into it anything further, including the “essential qualifications” which as has already been stated above appear to be in the nature of a generic stipulation rather than one which is specific to the particular discipline.

11. While so analyzing the advertisement, the learned Single Judge has also referred to the judgment of the Hon’ble Supreme Court in **State of Uttarakhand and Ors. vs. Deep Chandra Tiwari and Ors.**² which is also part of the quoted portion hereinabove.

12. The Inquiry Committee does not ascribe to the Respondents herein, any impropriety on their part and has only relied upon the fact that it was at the instance of the Vice Chancellor that the Respondents were called for an interview.

13. The learned Single Judge has made a detailed analysis of the recommendations of the Committee. The learned Single Judge has observed that, *ipso facto*, the only factor which governed the orders impugned in the Writ Petition were the recommendations of the committee. The learned Single Judge has gone on to hold that there had been an abject failure on the part of the Appellant to independently apply its mind to the contents of the said Report.

14. The only reason specified for the disqualification was the alleged non-adherence to the “essential qualification”. No reference has been made to the special note for each specialized discipline while drawing such a conclusion. In our opinion, merely relying upon the “essential qualification” that was stipulated without even an

² State of Uttarakhand and Ors. vs. Deep Chandra Tiwari and Ors. (2013) 15 SCC 557



advertence to the special note (ix) shows a complete lack of application of mind on the part of the Scrutiny Committee and also that of the Inquiry Committee which seems to have made its recommendation based on the view of the Scrutiny Committee.

15. An examination of the Committee's findings clearly shows that they were based on the Respondents' alleged lack of prescribed essential qualification. This is clearly unsustainable as the said "essential qualification" is sought to be read de hors the "special note" in respect of the posts to which the Respondents came to be appointed. The attempt of the Appellant to read into the special note, "essential qualification", which was generic in nature, is clearly misplaced.

16. We are of the opinion that the said "Essential Qualification" is generic in nature and the "Special Note" makes a clear provision that persons who fulfil the same were "also eligible", meaning thereby that the said note provided for a specific and independent qualification for the said discipline for which a candidate was applying.

17. The finding of the Inquiry Report that there was a "selective relaxation" in respect of the Respondents herein seems to be entirely incorrect. It is quite apparent that the qualifications for the specific discipline have been set out in the special note and the Respondents herein are fully compliant with the same.

18. It is no one's case that any kind of fraud was played upon the Appellant herein by either of the Respondents. In fact, the Respondents admit to the fact that they did not conform to the "Essential Qualification" but are fully compliant with the "special note (ix)".

19. The learned Single Judge has also referred to this Court's



2025:DHC:1771-DB



judgment in ***Prof. P.B Sharma v. Central Bureau of Investigation***³, and held that the allegations *qua* the said Prof. P. B. Sharma, the then Vice Chancellor, have been held to be unfounded and this Hon'ble Court had found that the appointments made by him were valid. The said appointments included those of the Respondents herein.

20. We also take note of the aspect that various litigations had come to be filed against the appointments made and the same had been rendered unsuccessful. While this aspect may not have been elaborated upon by the learned Single Judge, we advert to the same only to highlight that the various attempts that had been made, *inter alia*, to challenge the process of appointment and the appointments themselves, the same did not bear fruition.

21. There is also the aspect that as far back as on 04.04.2013, the then Chief Minister had clearly recommended that there was no need for an inquiry and that the matter should be closed. Instead of giving a quietus to the matter, the Appellant herein constituted a committee to enquire into the entire matter. It is as a result of the recommendations of this inquiry committee that the orders impugned in the Writ Petitions came to be passed.

22. The Respondents having worked in the Appellant institution for over a decade and no complaints having been canvassed by the Appellant against them, also leads us to form the view that the Respondents have carried out their job to the satisfaction of the Appellant and the students of the Appellant.

23. To conclude, in view of the afore-mentioned reasons, we hereby affirm the judgment of the learned Single Judge and dismiss the

³ Prf. P.B Sharma v. Central Bureau of Investigation, 2019 SCC OnLine Del 8068



2025:DHC:1771-DB



present appeals.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

MARCH 20, 2025/v/sm/er

LPA 731/2023 & 733/2023

Page 21 of 21

Signature Not Verified

Digitally Signed
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BHATIA
Signing Date: 21.03.2025
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