
suggested that it was wrong. It is true that the matter was placed before the standing Finance Committee. However, nothing has been pointed out to show that the said Committee can determine the age of retirement for various post. In fact there is a clear provision in Regulation 37-A. This provision has not been amended or modified in accordance with the provisions of the Act or the Rules. Neither the decision of the Central Government as contained in letter dated November 7th, 1989, a copy of which has been produced as Annexure R.1 nor that of the Governing Body as circulated on October 16th, 1992 a copy of which has been produced as Annexure R. 2 is of any consequence so far as the petitioner is concerned. He was appointed as a Tutor (Experimental Medicine). His post is a part of the teaching division. He belong to the teaching faculty. He has, thus, a right to continue in service till the age of 60 years.

(17) In view of the above, the writ petition is allowed. The impugned order which his claim was rejected, is quashed. It is declared that a Tutor (Non-medical) like the petitioner is a member of the teaching faculty and is entitled to be treated at par with the other members. The petitioner shall be entitled to his costs which are assessed at Rs. 3,000

S.C.K.

Before Jawahar Lal Gupta and Balwant Rai, JJ

NARSI RAM,—*Petitioner*

versus

GURU JAMBHESHWAR UNIVERSITY, HISAR AND
OTHERS,—*Respondents*

C.W.P. No. 732 of 97

20th, August, 1997

Constitution of India, 1950- Art. 226- Selection made to two posts of Readers in Environmental Science and Engineering in the Guru Jambheshwar University- Selections and appointments challenged- Petitioner put on the waiting list claiming that one of the selectees had failed to join the post by the time extended by the University and, therefore, offer should be treated as cancelled—Claim upheld

as it would not be fair to allow further extension—The other selectee did not fulfil the qualifications laid down for the post of Reader and, therefore, is ineligible—8 years experience of teaching and research necessary—No evidence placed to show that any research actually carried out by the appointee—Appointment quashed and direction issued to the University to consider the petitioner for the post of Reader.

Held that the extension of joining time cannot be an ever-continuing or a never ending process. The University has waited for almost one and half years. There appears to be no justification for any further extension of time. A perusal of the letter dated 14th July, 1997 shows that the respondent was informed that in case “you fail to join your duties by 31st July, 1997, the offer of appointment made to you as Reader in the Department of Environment Sciences and Engineering shall stand cancelled”. Since respondent No. 4 has not joined in view of this communication, the offer should stand cancelled. In this situation, it does not appear to be fair to allow him any further extension.

Further held, that there is nothing to indicate that the respondent had actually done some research either on the post of Research Associate or on the post of an Assistant Scientist. It has not even been indicated that she had published any papers or given any other evidence of the research actually carried out by her. Yet, it has been averred that she “had more than nine years of research experience to her credit”. The post of a Reader in a University is a fairly senior position. Persons with proven merit alone can be appointed. In the present case, it appears that respondent No. 5 did not fulfill the prescribed requirement of experience. In fact, the qualifications as noticed above require that the research experience has to be assessed on the basis of “quality of publications, contribution to educational renovation, design of new courses and curricula.” There is not even a suggestion that the quality of publications, if any, was even assessed or that the respondent had contributed to educational renovation or designed any new courses etc.

(Para 15 and 16)

Further held, that another fact which deserves mention is that even though, it has been provided that a person having eight years experience “of teaching and/or research. . . .” is eligible, yet the fact remains that a Reader has to teach. The prescribed qualifications specifically lay down that “five years experience of teaching Post Graduate Classes will be considered desirable”. It appears necessary that the candidate should have some experience of teaching. In the present case, the petitioner’s suggestion that

respondent No. 5 did not have even one day's teaching experience is not shown to be false. In this situation, the answer to the second question has to be in favour of the petitioner.

(Para 17)

Further held, that the appointment of respondent No. 5 is quashed. The respondents are directed to consider the petitioner's claim for appointment to the post of Reader in Environment Science and Engineering.

(Para 18)

Y.P. Malik, Advocate, *for the petitioner*

Surya Kant, Advocate.

R.K. Malik, Advocate.

Santosh Kumar Singh, *respondent No. 4 in person.*

JUDGMENT

Jawahar Lal Gupta, J.

(1) On January 10, 1996, the Guru Jambheshwar University, Hissar advertised two posts of Readers in Environmental Science and Engineering. An extract from the advertisement which appeared in the Daily Tribune, has been produced as Annexure P.1 with the writ petition. The petitioner as well as respondent Nos. 4 and 5 were candidates for these two posts. They were interviewed on February 9, 1996. Respondent Nos. 4, 5 and the petitioner were selected in that order of merit. Since there were only two posts, the petitioner was placed in the waiting list. On March 2, 1996, offers of appointment were issued to respondent Nos. 4 and 5. Respondent No 5 joined service on March 15, 1996. Respondent No. 4 did not join. The petitioner served a notice on the respondents through his counsel requesting that he be appointed. No offer of appointment having been made to him, he filed the present writ petition.

(2) The petitioner alleges that Respondent No. 5 was not eligible for appointment to the post of a Reader as she did not have the prescribed teaching experience. Since respondent No.4 has not joined and respondent No. 5 was ineligible, the petitioner prays that the respondents should consider his claim for appointment on the post of Reader.

(3) In the written statement filed on behalf of respondent Nos. 1 to 3, it has been *inter alia* averred that for the purpose of determining eligibility for the post of Reader, the research experience of a candidate can be treated as teaching experience. The fifth respondent, it is maintained, was eligible as she had more than 9 years of research experience to her credit. With regard to the fourth respondent, it has been *inter alia* stated that he had been granted extension for joining up to July 16, 1996. On May 12, 1996, the Government of Haryana imposed a ban on recruitment. Consequently, he could not be allowed to join. He filed CWP No. 8527 of 1996. The University had given an assurance that the respondent shall be given appointment after the ban is lifted by the State Government. Consequently, the writ petition was dismissed by the court on August 13, 1996. After the lifting of the ban "Respondent No. 4 has been asked to join his duties as Reader in the Department of Environmental Science and Engineering up to 5th May, 1997". On these premises, it is maintained that the selection is valid and that the petitioner has no cause for grievance.

(4) A short written statement has been filed by respondent No. 5. She claims that she has a better academic record than the petitioner. She has various publications and more than 9 years experience to her credit.

(5) Counsel for the parties have been heard.

(6) On behalf of the petitioner, it is contended that the fourth respondent has not joined till July 31, 1997. Respondent No. 5 was ineligible. Consequently, her appointment was illegal. The petitioner who is next in order of merit should be considered for appointment.

(7) On behalf of the University, it was submitted that the fourth respondent is already working as an Assistant Professor at the College of Engineering and Technology, Bathinda. He has already applied for permission to join at the Guru Jambheshwar University. The moment he is relieved, he will report for duty. The counsel maintained that the fifth respondent was eligible. It was also pointed out that the University is keen to appoint respondent No. 4 as he is from the field of Environmental Engineering while respondent No. 5 has experience in environmental science. If the petitioner is also appointed on the post offered to respondent No. 4, both the posts shall be occupied by persons who have worked in the field of Environmental Science. On these premises, the learned

counsel submitted that the writ petition should be dismissed.

- (8) The two questions that arise for consideration are :—
- (i) Is the University justified in waiting for Respondent No. 4 till today?
 - (ii) was Respondent No. 5 eligible for appointment as a Reader?

Reg : (i) :

(9) Admittedly, the selection had been made in February 1996. An offer of appointment had been made to the fourth respondent soon after the selection. While respondent No. 5 had joined on March 15, 1996, respondent No. 4 had asked for extension of time. The request was periodically accepted. On July 22, 1997, Mr. Surya Kant, counsel for the Respondent-University had stated before a Bench of this Court that "last extension has been given to respondent No. 4 to join by July 31, 1997." The case was, consequently, adjourned to August 4, 1997. It was ultimately taken up on August 5, 1997. Even on that date, respondent No. 4 had not joined service at the Respondent-University.

(10) The extension of joining-time cannot be an ever-continuing or a never-ending process. The University has waited for almost one and a half years. There appears to be no justification for any further extension of time. It may be noticed that Mr. Surya Kant had produced before us a photo copy of the letter dated Nil which was stated to have been issued on July 14, 1997 by which the fourth respondent was asked to join up to July 31, 1997. This copy of the letter is taken on record as Mark 'A'. A perusal of this letter shows that the respondent was informed that in case "you fail to join your duties by 31st July, 1997, the offer of appointment made to you as Reader in the Department of Environment Sciences and Engineering shall stand cancelled." Since respondent No. 4 has not joined in view of this communication, the offer should stand cancelled.

(11) Even the fourth respondent had appeared. He had stated before us that he has been unable to join as he had not been relieved by his employer. It may be so. However, the fact remains that the last extension granted by the University has already expired. In this situation, it does not appear to be fair to allow him any further extension.

Reg : (ii) :

(12) It was contended on behalf of the petitioner that Respondent No. 5 was not eligible for appointment to the post of Reader. Is it so?

(13) In paragraph 3 of the written statement, the qualifications prescribed for the post of Reader in so far as experience etc. is concerned are as under :—

“READER :

Good academic record with a doctoral degree or equivalent published work. Candidates from outside the University system in addition shall also possess atleast 55% marks or an equivalent grade at the Master’s degree level.

Eight years experience of teaching and/or research including up to 3 years for research degrees and has made some mark in the areas of scholarship as evidenced by quality of publications, contribution to educational renovation, design of new courses and curricula. 5 years experience of teaching P.G. classes will be considered desirable.”

(14) A perusal of the above shows that a candidate must possess eight years experience of teaching and/or research. Credit up to 3 years for a research degree can be given. It has also been provided that five years experience of teaching Post Graduate Classes is a desirable qualification. According to the University, Respondent No. 5 had mentioned here experience in the application as under :—

- | | | |
|---|---|---|
| “1. Directorate (Directorate)
Degree from HAU, Hissar. | : | Three Years research
experience admissible as
per UGC guidelines. |
| 2. Reserch Associate,
HAU, Hissar. | : | 9-5-1989 to 17-7-1990. |
| 3. Assistant Scientist
Remote-sensing Centre,
Hissar. | : | 18-7-1990 to 25-1-1996.” |

(15) Even if the above position is accepted as correct, there is nothing to indicate that the respondent had actually done some research either on the post of Research Associate or on the post of an Assistant Scientist. It has not even been indicated that she had published any papers or given any other evidence of the research actually carried out by her. Yet, it has been averred that she “had more than nine years of research experience to her credit.”

(16) The post of a Reader in a University is a fairly senior position. Persons with proven merit alone can be appointed. In the present case, it appears that respondent No. 5 did not fulfill the prescribed requirement of experience. In fact, the qualifications as noticed above require that the research experience has to be assessed on the basis of "quality of publications, contribution to educational renovation, design of new courses and curricula." There is not even a suggestion that the quality of publications, if any, was ever assessed or that the respondent had contributed to educational renovation or designed any new courses etc.

(17) Another fact which deserves mention is that even though, it has been provided that a person having eight years experience "of teaching and/or research...." is eligible, yet the fact remains that a Reader has to teach. The prescribed qualifications specifically lay down that "five years experience of teaching Post Graduate Classes will be considered desirable." It appears necessary that the candidate should have some experience of teaching. In the present case, the petitioner's suggestion that respondent No. 5 did not have even one day's teaching experience is not shown to be false. In this situation, the answer to the second question has to be in favour of the petitioner.

(18) In view of the above, the writ petition is allowed. The appointment of respondent No. 5 is quashed. The respondents are directed to consider the petitioner's claim for appointment to the post of Reader in Environmental Science and Engineering. The needful shall be done within one month from the date of receipt of a copy of this order. The petitioner shall also be entitled to his costs which are assessed at Rs. 5,000.

R.N.R.

*Before K. Sreedharan, C.J. N.K. Sodhi and
Swatanter Kumar, J.J.*

VARINDER SINGH AND OTHERS,— *Petitioners.*

versus

STATE OF PUNJAB AND OTHERS,— *Respondents*

C.W.P. 10526 of 97

4th September, 1997