
(2009) 05 AHC CK 0624
In the Allahabad High Court

Babita Gupta

APPELLANT

Vs

State of U.P.and others.

RESPONDENT

Date of Decision : 18-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0624

Hon'ble Judges : Janardan Sahai, J and Yogendra Kumar Sangal, J

Final Decision : Dismissed

Judgement

Y.K. Sangal, J.

It appears that Dayanand Vadik Maha Vidyalaya, Orai, Jalaun issued an advertisement for appointment of lecturers on honorarium basis in respect of three posts of lecturer in botany. The petitioner gave an application in pursuance to the said advertisement. The respondent no. 6 Dr. Neel Ratan as well as certain other candidates also applied. The committee of management selected three candidates for appointment against the three posts of lecturer in Botany on honorarium basis and the name of Dr. Neel Ratan the respondent no.6 was included in the said list. It is stated in the supplementary affidavit that the papers for grant of approval for appointment of the selected candidates were sent on 26.8.2008 but the papers remained pending with the Director of Higher Education and ultimately approval to the appointment of the respondent no. 6 and to that of the other two selected candidates was granted by the Director of Higher Education on 18.3.2009. The petitioner has challenged the appointment of the respondent no. 6. It is conceded by the learned counsel for the petitioner that the other two candidates were higher in merit than the petitioner and as such their appointment has not been questioned but according to the counsel for the petitioner the respondent no.6 was lower in merit than the petitioner and as such his appointment as lecturer on honorarium basis has been challenged.

A counter affidavit has been filed by the respondent no.6 in which it has been stated that the petitioner was not qualified for appointment on the post of lecturer on honorarium basis in as much as the college in question is a post

graduate college and the minimum required qualification for appointment as lecturer in respect of P.G. Classes is NET together with M.Phil Degree. The minimum qualification for the post of lecturer is given in the University Grants Commission notification dated 14.6.2006 for teaching post graduate classes. The relevant portion of the said notification is being extracted below;

"NET shall remain the compulsory requirement for appointment as lecturer for those with graduate degree. However, the candidates having Ph.D. Degree in the concerned subject are exempted from NET for P.G. Level and U.G. Level teaching. The candidates having M. Phil degree in the concerned subject are exempted from NET for UG level teaching only.

The respondent no.6 has been appointed to teach P.G. Classes. The relevant qualification prescribed by the University Grants Commission therefore required to be seen are in respect of the P.G. Classes. The portion of the notification above quoted would indicate that where a candidate has an M.Phil degree he is exempted from NET only for under graduate teaching. Undisputedly the petitioner does not have a Ph. D. Degree. The petitioner also does not have the NET qualification. He merely had a M.Phil degree as on the date of the advertisement and on the date of his application and at the time of process of selection. The petitioner therefore was not qualified for the post on the date when the respondent no.6 was selected. The mere fact that the petitioner may have subsequently obtained the Ph.D. degree before the grant of the approval of the appointment of respondent no. 6 by the Director of Higher Education would not invalidate the selection made. The writ petition lacks merits and it is dismissed.