

---

**(1986) 03 RAJ CK 0034**

**In the Rajasthan High Court**

**Case No : Civil Writ Petition No. 1713 of 1985**

Dr. Bharat Lal Sharma

APPELLANT

Vs

University of Rajasthan and Another

RESPONDENT

---

**Date of Decision : 10-03-1986**

**Acts Referred:**

Rajasthan Universities Teachers and Officers (Special Conditions of Service) Act, 1974  
— Section 3(1)

**Citation : (1986) RLW 429 : (1986) 2 WLN 279**

**Hon'ble Judges : Mahendra Bhushan Sharma, J**

**Bench : Single Bench**

**Final Decision : Allowed**

---

## **Judgement**

M.B. Sharma, J.—By advertisement No. 1/82(T) issued by the Registrar on behalf of the University of Rajasthan, Jaipur, applications were invited for various posts contained therein so as to reach the office of the Registrar on or before July 31, 1982 in the prescribed form which was available from his office on pre-payment of Rs. 4/-. Rs. 4/- were to be paid in extra in case the prescribed form was required by post. Six posts of Assistant Professors (Lecturers) in Chemistry were advertised and the said posts were categorised as leave/temporary. Note 2 and 3 of the advertisement are relevant and they read as under:

Note 2 :--The posts of Associate Professor in Econ. 1, Public Admn. 1, Sociology 1, Education 1, and Assistant Professors in History 2, Public Admn. 3, and Education 10, are temporary but likely to continue to indefinite period and may be made permanent".

Note 3 :-- Leave vacancies are of the duration ranging from 3 months to one year.

Many applications were received to fill the six posts of Assistant Professors (Lecturers) in the subject of Chemistry, the category of posts being temporary leave and the Selection Committee was constituted which recommended the

appointment of candidate. Though, six vacancies (leave/temporary) were advertised but there is no dispute that the number of leave/temporary vacancies by that time increased to 8 and the candidates including the respondent No. 2 Dr. Dinesh Gupta were recommended for appointment on the posts of leave/temporary vacancies. Later on one more leave vacancy also occurred as a result of one of the persons proceeding on study leave and that post was also filled.

2. The power to appoint vests in the Syndicate which approved the names of the candidates for appointment recommended by the Selection Committee. Thereafter vide order dated August 1, 1983 (Annexure 4) on the recommendations of the Selection Committee constituted in terms of Section 4 of the Rajasthan Universities Teachers and Officers (Special Conditions of Service) Act, 1974 (for short, the Act which have been approved by the Syndicate as many as 8 candidates were appointed as Assistant Professors (Lecturers) on temporary basis. Among the eight candidates, the name of the respondent No. 2 appears at No. 3. It was made clear in the aforesaid order dated August 1, 1983 (Annexure 4) that the appointment of all the candidates is purely on temporary basis for a period of six months or till further orders whichever is earlier. It was also subject to the decision of the special leave petitions numbered therein which were pending in the Supreme Court. All the candidates were requested to report for duty to the Head of the University Department of Chemistry immediately.

3. The non-petitioner No. 2 did not report for duty as desired under the aforesaid order dated August 1, 1983 and under his letter dated August 9, 1983 raised certain queries in respect of protection of his basic pay, extension of joining time etc. The above letter of the respondent No. 2 was replied by the Dy. Registrar (Establishment) vide his letter dated August 20, 1983 (Annexure 6) and the non-petitioner No. 2 was informed that he is permitted to join his duties in the department within one week from the date of issue of that letter failing which the offer of appointment will be treated as withdrawn. He was informed that his salary will be protected as per rules on production of last pay certificate from the previous employer. As regards the query for making him permanent as and when permanent vacancy occurs in the department of Chemistry, the non-petitioner No. 2 was informed that the University cannot give any guarantee in this respect. The non-petitioner No. 2 still did not join within the extended time allotted to him to join this post. He again addressed another communication dated August 25, 1983 (Annexure 7) to the Registrar, University of Rajasthan, Jaipur, wherein it was informed that he would join the University as soon as he is relieved by the Government. The non-petitioner No. 2 also requested the Registrar to have the Education Secretary; Government of Rajasthan to treat him on deputation till he is finally absorbed by the University on a permanent basis for which the deputation allowance will not be claimed. He further wrote in the above letter, "You would kindly agree with us that it would not be advisable for me to leave the permanent Government service at this stage". The Dy. Registrar, of the University of Rajasthan wrote to the non-petitioner No. 2 on Sept. 14, 1983 that it is more than a fortnight that the non-petitioner No. 2 has not joined

the services as temporary lecturer in the University in accordance with the appointment order issued to him. The non-petitioner No. 2 was requested to join his duties within a week from the despatch of that letter failing which it will be considered that he is no more interested in joining the University on the post of temporary lecturer and consequently- offer will be treated as withdrawn. The non-petitioner No. 2 still did not join the duties and wrote a letter on 23-9-1983 (Annexure 9) to the Registrar inviting his attention to the earlier letter dated August 25, 1983. He sought permission to join after Dashera vacation since by that time he would get himself relieved from the Government. The Assistant Registrar of the University informed the non-petitioner No. 2 reference to his letter dated September 21, 1983 that his request has not been acceded to, and since he has not joined his duties by September 21, 1983, therefore, the offer of appointment for the post of Temporary Assistant Professor (lecturer) in Chemistry Department made to him vide letter dated August I, 1983 was withdrawn, (Annexure 10). A reference may also be made to the letter of the Dy. Registrar dated August 20, 1983 which was sent in reference to the letter of the non-petitioner No. 2 dated NIL that he has been directed to say that the request of the non-petitioner No. 2 for appointment on the post of Assistant Professor on permanent basis could not be accepted.

4. It appears that the University of Rajasthan appointed a committee headed by Shivnath Kapur, the then Director or Education Rajasthan, Jaipur. The question referred to that committee was of absorption of lecturers appointed on temporary basis on the recommendations of statutory Selection Committees. The committee took a decision that number of such lecturers who were continuously in service of the University was 41. The non-petitioner No. 2 did not join and as such he was not in the University service when the Shivnath Committee considered the question referred to it. Vide order of the Vice Chancellor dated March 21, 1984 the term of Shivnath Committee was also extended. The name of the non-petitioner No. 2 also recommended by the Selection Committee which met not on July 9, 1983 was not considered by Shivnath Kapur Committee because he had not joined the post and the offer of appointment given to him had been withdrawn. In para No. 17 Shivnath Kapur Committee recommended that all temporary appointees recruited on the recommendations of the statutory Selection Committees in all subjects in 1983 should be appointed substantively against permanent vacancies as and when they are available in accordance with the merit list. It was also recommended that where permanent posts are not available they should be given appointment orders to continue on temporary basis until further orders, and there should be no need to review renew these appointment orders every six months or one year. So far as the appointees who were appointed on purely temporary basis or stop gap arrangements, the Committee recommended that in no case this category should be appointed on the recommendations of the statutory Selection Committee. The recommendations were accepted by the Syndicate. The report of the Committee handed by Shivnath Kapur was challenged by filing writ petition Nos. 2005/35

and 804/85 and both the writ petitions were dismissed and the recommendations of the Committee were held to be valid.

5. Dr. Dinesh Gupta, wrote a letter to the Registrar, University of Rajasthan, Jaipur on 19-11-1984 with reference to his letter dated October 27, 1984 informing that his request for appointment on permanent basis can not be accepted, that he had never requested for his appointment as permanent Assistant Professor but he wanted that he should be appointed on the same terms and conditions as had been for other persons who were appointed after having selected by the statutory Selection Committee and allowed to continue till further orders as per Syndicate decisions. Since they are to be absorbed permanently against the permanent posts as and when permanent vacancies arise, he may also be treated at par with them.

6. It may be stated here that the petitioner is temporary lecturer in the subject of Chemistry in the University of Rajasthan for last few year and he also appeared before the Selection Committee constituted under the Act but was not recommended by it for appointment to the post of Assistant Professor (Lecturer) in. the subject of Chemistry. The grievance of the petitioner is that so far as non-petitioner No. 2 is concerned, the offer given to him by the University of Rajasthan was withdrawn because the non-petitioner No. 2 only wanted to join on assurance that he will be confirmed as and when permanent vacancy occurs. He contends that the duration was only for six months on the posts of leave/temporary vacancies and it is clearly mentioned in notes 2 and 3 that such posts were not likely to be made permanent. Therefore, moment the offer by the University to the non-petitioner No. 2 was withdrawn the non-petitioner No. 2 could not claim to be appointed on the recommendations of the Selection Committee.

7. The writ petition is contested on behalf of the non-petitioners on the ground that the petitioner has no locus standi to file the writ petition and that notwithstanding the withdrawal of the offer of appointment by the University of Rajasthan the panel prepared by the Selection Committee still holds good and the non-petitioner No. 2 can be considered for appointment by the Syndicate. The non-petitioners further contested this writ petition on ground that the same is pre-mature because the Syndicate before appointing any body on the post of Asstt. Professor (lecturer) is still to consider the application dated November 19, 1984 and it may or may not accept the same.

8. The non-petitioner No. 2 was working as permanent lecturer in Chemistry at Government College, Ajmer when he applied for the post of Assistant Professor (lecturer) in Chemistry which post was temporary/leave vacancy as per the advertisement referred to earlier. A reference has been made to various communications exchanged between the University of Rajasthan and non-petitioner No. 2 and it is not necessary to repeat them and suffice it to say that the offer made to the non-petitioner No. 2 of temporary appointment as Assistant Professor (lecturer) in the subject of Chemistry was withdrawn by the

University because the non-petitioner No. 2 wanted an assurance that he will be absorbed on permanent vacancy as and when permanent vacancy occurs. There is no rule or Ordinance in the University of Rajasthan in respect of panel prepared and recommendations made by the Selection Committee constituted under the provisions of the Act. In Prem Prakash Vs. Union of India (UOI) and Others, their Lordships were considering the case of appointment to the Delhi Judicial Service. In that case the list of panel was prepared for selection to Delhi Judicial Service for 1979" The candidates belonging to the Scheduled Castes whose name appeared in the panel of 1979 could not be appointed in that year. They went to the Supreme Court and the Supreme Court ordered that they should be appointed despite the expiry of duration of the panel. Their Lordships at page 1837 in last para observed:

The matter has been carefully considered. Normally recruitment whether from the open market or through a Departmental Competitive Examination should take place only when there are no candidates available from an earlier list of selected candidates. However, there is a likelihood of vacancies arising in future, in case numbers of selected candidates are already available there should either be no further recruitment till the available selected candidates are absorbed or the declared vacancies for the next examination should take into account the number of persons already in the list of selected candidates awaiting appointment.

In that case their Lordships considered a notification dated February 8, 1982 of the Ministry of Home Affairs, Department of Personnel and Administrative Reforms about the validity of period of list of selected candidates prepared on the basis of direct recruitment/departmental competitive examinations. In our case, there is no such rule and in case selections are made for permanent posts then only reserve list of 50% is also prepared. A reference to the advertisement (Annexure 2) is again necessary to be made and so far as leave vacancies are concerned, it was clearly provided that they are of duration from 3 months to one year and the six vacancies which were to be advertised in Chemistry for Asstt. Professor (Lecturers) were leave/temporary vacancies. Thus, in any case the recommendations of the Selection Committee could not be accepted in the present case looking to the nature of vacancies. That part, it has already been stated that so far as non-petitioner No. 2 is concerned the offer made to him was withdrawn by the University. u/s 6 of the Contract Act a proposal is revoked by the communication of notice of revocation by the proposer to the other party. The proposal made to the non-petitioner No. 2 was a temporary/leave appointment to the post of Assistant Professor (Lecturer). The non-petitioner No. 2 made a counter offer that he was willing to join in case an assurance is given to him that he will be absorbed against the permanent vacancy. It was done because the non-petitioner No. 2 was holding the permanent post with the Government of Rajasthan as Lecturer in Government College, Ajmer. The counter offer was not accepted by the University and it revoked the offer made earlier. There is no dispute that the non-petitioner No. 2 received a notice of revocation of the offer and he cannot now say that he has a right to be considered for

appointment to the recommendations of the Selection Committee which were made in 1983. Having denied the offer and having not joined the post of Asstt. Professor (Lecturer) on temporary/leave vacancy the non-petitioner No. 2 cannot now say that because Shri Shivanath Kapur Committee has made the recommendation he should be dealt with similarly. Such a question would have only arisen if the non-petitioner No. 2 would have joined along with others and then he could have claimed that he is entitled to be dealt with similarly because he was similarly situated. As already stated earlier, the offer has been withdrawn. So far as the right of consideration even by the Syndicate for appointment as u/s 3(1) of the Act no person shall be appointed except on the recommendations of the Selection Committee constituted u/s 4. As already stated, the recommendations of the Selection Committee cannot be taken shelter of by the non-petitioner No. 2 because the University had withdrawn the offer given to him for appointment as Asstt. Professor (Lecturer) in Chemistry. No doubt non-petitioner No. 2 can be considered for appointment under Sub-section (3) of Section 3 of the Act as fresh candidate as stop gap arrangement for a period not exceeding six months, but as already stated, he cannot be appointed even by the Syndicate u/s 3(1) of the Act.

9. So far as the locus standi of the petitioner is concerned, it may be stated that the posts advertised in the Chemistry department were purely leave/temporary vacancies. If the posts would have been permanent many others would have applied. The petitioner would have a right to again apply and appear for interview. Under these circumstances, it cannot be said that the petitioner has no locus standi to file the present writ petition. So far as the question that the writ petition is premature is concerned, it cannot be said to be premature. In *Sunita v. University of Jodhpur and Ors.* 1981 WLN (UC) 182, I have taken a view that the writ petition was premature where the Selection Committee had made some recommendations which were to be considered by the Syndicate. But that case is not applicable to the facts of the present case.

10. Consequently, I allow this writ petition and direct that the Syndicate shall not consider the application of non-petitioner No. 2 on the basis of the recommendations that were made in 1983. The Syndicate shall be free to appoint the non-petitioner No. 2 under Sub-section (3) of Section 3 of the Act. Costs made easy.