

(2023) 04 UK CK 0083

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 128 Of 2021

Dr. Dhanpal Singh Chauhan

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 27-04-2023

Acts Referred:

University Grants Commission Regulations, 2010 — Regulation 6.3.12(c)
University Grants Commission Regulations, 2018 — Regulation 6.3(VI)(iii), 16.3

Citation : (2023) 04 UK CK 0083

Hon'ble Judges : Vipin Sanghi, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : K.P. Upadhyay, Anil Dabral, Dr. Kartikey Hari Gupta, Rafat Munir Ali, Irum Zeba, Anjali Bhargava

Final Decision : Disposed Of

Judgement

Vipin Sanghi, CJ

1. The petitioner has preferred the present Writ Petition, primarily, to seek the preponement of his date of promotion from the post of Associate Professor to the post of Professor (Forestry) in the respondent-Hemwati Nandan Bahuguna Garhwal University, Srinagar, Pauri Garhwal, from 06.03.2020 – when he joined the said post, to 02.09.2017.

2. The short compass, in which the present case falls, is that the petitioner became Associate Professor on 02.09.2014. On completion of three years, he became eligible to be considered for promotion to the post of Professor in the relevant subject, in terms of the Regulations issued by the UGC, being the UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010, framed by the University Grants Commission. The said Regulations, inter alia, provide in Regulation 6.3.12(a) that "If a candidate applies for promotion on completion of the minimum eligibility period and is successful, the date of promotion will be from that of minimum

period of eligibility.”

3. Though, the petitioner became eligible for consideration for promotion to the post of Professor, under the aforesaid Regulations, on 02.09.2017, his case was considered only after the coming into force of the UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018, which were enforced vide notification dated 18.07.2018. Even under the said Regulations, there is a *pari materia* provision in Regulation 6.3(VI)(i). Insofar as, the said Regulation is relevant, the same reads as follows :-

“i) If a candidate applies for promotion on completion of the minimum eligibility period and is successful, the date of promotion shall be from that of minimum period of eligibility.”

4. The petitioner has placed on record the consideration of his case by the Screening Committee on 21.12.2019, which found him eligible for interview. The petitioner was, accordingly, interviewed on 23.01.2020, and he was found eligible for promotion to the post of Professor in the Department of Forestry. However, when it came to the date of promotion under CAS, the Committee recommended “not from due date, but the date of joining”. Consequently, the petitioner was given promotion from the date of his joining, which is 06.03.2020. By placing reliance on the aforesaid Regulations of the years 2010 and 2018, which, as we have already seen are *pari materia*, the petitioner claims that the Selection Committee could not have altered the date, from which the petitioner became entitled to be promoted under the UGC Regulations of 2010 and 2018, and the petitioner was entitled to be promoted to the post of Professor with effect from the date of his eligibility, i.e. 02.09.2017.

5. The respondents have filed their counter affidavit. The stand of the respondent-University is that the Selection Committee is entitled to determine the date, from which a promotee would get the promotion. The respondents have also placed reliance on Regulation 16.3, which deals with the aspect of inter se seniority between the direct recruits and teachers promoted under the CAS. The said Regulation reads as follows :-

“16.3 Inter-se seniority between the direct recruited and teachers promoted under CAS

The inter-se seniority of a direct recruit shall be determined with reference to the date of joining and for the teachers promoted under the CAS with reference to the date of eligibility as indicated in the recommendations of the selection committee of the respective candidates. The rules and regulations of the respective Central/State Government shall apply, for all other matters of seniority.”

6. We have heard learned counsels, and considered their rival submissions.

7. On a plain reading of the Regulations, both of the year 2010 and of the year 2018, it is clear that they, in no uncertain terms, provide that once a candidate is found to be eligible for promotion, the date of his promotion, necessarily, has to be read as the date on which he became eligible for promotion. Thus, the date, on which his case is considered for promotion is irrelevant. The only mandate of the Selection Committee is to consider whether the candidate is eligible, or not. Once a candidate is found eligible, he is bound to be given his promotion from the date of his eligibility. The only exception to this Rule is where a candidate does not succeed in the first assessment, and he is re-assessed. In that regard, Regulation 6.3.12(c) of the UGC Regulations, 2010 provided that "If the candidate does not succeed in the first assessment, but succeeds in the eventual assessment, his/her promotion will be deemed to be from the later date of successful assessment." Similarly, Regulation 6.3(VI)(iii) of the UGC Regulations, 2018 provides that "The candidate who does not succeed in the first assessment, he/she shall have to be re-assessed only after one year. When such a candidate succeeds in the eventual assessment, his/her promotion shall be deemed to be one year from the date of rejection."

8. It is nobody's case that the petitioner's case is covered either by Regulation 6.3.12(c) of the UGC Regulations, 2010, or by Regulation 6.3(VI)(iii) of the UGC Regulations, 2018.

9. Reliance placed by the respondents on Regulation 16.3 of the UGC Regulations, 2018 is inapposite, inasmuch as, the said Regulation deals with the aspect of inter se seniority between direct recruits and teachers promoted under CAS. The petitioner's case is not related to determination of inter se seniority between direct recruits and teachers promoted under CAS. The said Regulation, therefore, does not apply in the facts of the present case.

10. The Regulations framed by the UGC are binding on the respondent-University, since the respondent-University is a Central University. Therefore, the respondent-University is bound to comply with the same.

11. Aforesaid being the position, we find merit in the petitioner's claim, and allow the present Writ Petition. We direct that the petitioner's promotion to the post of Professor (Forestry) shall be reckoned from 02.09.2017 for all intents and purposes. To the extent that the Selection Committee directed that the petitioner's promotion be considered from the date of his joining, the decision of the Selection Committee is, accordingly, quashed.

12. The Writ Petition stands disposed of in the aforesaid terms.

13. Consequently, pending applications, if any, also stand disposed of accordingly.