

(2013) 08 KAR CK 0060

In the Karnataka High Court

Case No : Writ Petition No. 37971 of 2011 (S-RES)

Dr. Jagadeesh

APPELLANT

Vs

Karnataka Veterinary, Animal and Fisheries Sciences
University, Karnataka Veterinary, Animal and Fisheries
Sciences University, Dr. A. Sahadev and Dr. Nagaraj G.N.

RESPONDENT

Date of Decision : 20-08-2013

Acts Referred:

Citation : (2013) 08 KAR CK 0060

Hon'ble Judges : B. Manohar, J

Bench : Single Bench

Advocate : M.S. Bhagat, for the Appellant; Krishna S. Dixit, Advocate for R1 and 2 and Sri. S. Yogananda, Advocate for R3, R4, for the Respondent

Final Decision : Dismissed

Judgement

B. Manohar, J.—Petitioner in this writ petition has sought for quashing the appointment of respondents 3 and 4 as Professor of Veterinary, Gynecology, Obstetrics as well as Professor of Veterinary Anatomy dated 28-7-2011 issued by the first respondent University and also sought for issuance of writ of quowarranto prohibiting the respondents 3 and 4 from holding the post of Professor in Veterinary, Gynecology as well as the Obstetrics as well as the Veterinary Anatomy. In the writ petition, the petitioner has contended that he was initially appointed as Veterinary Extension Officer in the department of Animal and Husbandry. He had passed Master Degree in Pharmacology in the year 1998-99 and Doctor of Philosophy in Veterinary Pharmacology and Toxicology in the year 2006-07. He is a gold medalist in Doctor of Philosophy in Veterinary Pharmacology and Toxicology and also obtained Ph.D. Certificate in the year 2009. On the basis of the said qualification he was selected and appointed as an Associate Professor in Pharmacology and Toxicology on 13-3-2009. He claims that he belonged to Scheduled Caste category. The respondent-University invited applications for the post of Professors under the backlog category as per the

notification dated 9-7-2010. The petitioner made two applications for the post of Professor in Veterinary Anatomy as well as to the post of Professor in Veterinary Gynecology and Obstetrics as he had acquired Ph.D. certificate in allied subjects. The qualification he had obtained is equivalent to the said subject. He has fulfilled the requirement of 10 years experience in teaching/research/extension. However, he was not called for the interview though the other candidates who are not eligible to be appointed as Professors were called. The petitioner was informed by the respondent-University that he does not possess Ph.D. in Veterinary Anatomy or Veterinary Gynecology and Obstetrics, hence he was not called for interview for the post of Professors. In view of non-consideration of the case of the petitioner, he filed W.P. No. 16323/2011 seeking directions to respondents 1 and 2 to consider his case for the post of Professor of Veterinary Anatomy or Veterinary Gynecology Obstetrics under the backlog category. However, the said writ petition was dismissed by this court on 06-07-2011 holding that the qualification obtained by the petitioner is not equivalent to the post notified. Hence, he is not eligible to be appointed for the posts notified. Being aggrieved by the said order, the petitioner filed W.A. No. 15098/2011 which came to be dismissed by the Division Bench of this court reserving liberty to the petitioner to challenge the appointment of selected candidates for the post he had applied for. Further contended that respondents 3 and 4 are not eligible to be appointed as Professors and appointment of the respondents 3 and 4 to the post of Professors of Veterinary Gynecology and Obstetric and Professor of Veterinary Anatomy respectively is contrary to the UGC norms. Hence, filed the present writ petition challenging the selection and appointment of 3rd and 4th respondent as Professors and also sought for issuance of writ of quo-warranto prohibiting respondents 3 and 4 from holding the posts of Professors in the aforementioned subjects.

2. In pursuance to the notice issued by this court, the respondents entered appearance.

3. Sri. Krishna S. Dixit, learned counsel appearing for respondents 1 and 2 contended that writ petition filed by the petitioner is not maintainable since he was not eligible for the post of Professor. The writ petition as well as the writ appeal filed by the petitioner were also dismissed by this court, hence he cannot challenge the selection of respondents 3 and 4 for the post of Professors. The appointment has been made for the posts of Professors as per the qualification prescribed by the Apex Body. The UGC guidelines are not applicable. Apart from that the notification dated 9-7-2010 is amended on 7-12-2010 which was produced at Annexure-J in the writ petition. As per the amended notification, the respondents 3 and 4 are eligible for the post of Professors. Further the 4th respondent though selected, he has not reported for the post of Professor. Hence sought for dismissal of the writ petition.

4. Sri. S. Yogananda, learned counsel appearing for the 3rd respondent adopted the arguments of Sri. Krishna S. Dixit and contended that the petitioner is not

eligible to be appointed as a Professor. Hence, he cannot challenge the selection of 3rd respondent for the post of Professor in Veterinary Gynecology and Obstetrics. The selection has been made in accordance with the norms and regulations of Indian Council of Agriculture Research and the petitioner has no locus-standi to file the writ petition. Further, the Division Bench of this court has not reserved liberty to file a writ petition challenging the selection of respondents 3 and 4 and sought for dismissal of the writ petition.

5. I have carefully considered the arguments addressed by the parties.

6. The records clearly disclose that the application filed by the petitioner for appointment to the post of Professor in Veterinary Anatomy as well as Veterinary Gynecology and Obstetrics was not considered by the respondent-University on the ground that he does not possess the necessary qualification for the said post. The Ph.D. obtained in allied subjects is not equivalent to the notified posts. The W.P. No. 16323/2011 filed by the petitioner was dismissed by this Court and the same came to be confirmed in W.A. No. 15098/2011 by the Division Bench of this Court. The present writ petition has been filed alleging that respondents 3 and 4 are not eligible to be appointed as Professors since they do not possess Ph.D. Certificate and 10 years teaching experience as per the UGC norms. Hence, sought for writ of quo-warranto prohibiting respondents 3 and 4 from holding the posts of Professors in the subjects referred to above. The records produced by the petitioner clearly disclose that the notification under which, the petitioner made an application has been subsequently amended on 07-12-2010. In the said amended notification, Ph.D. qualification has not been prescribed. 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 are applicable to the University and College Teachers, Librarians, Director of Physical Education are admitted to the privileges of the University.

7. For teachers in the faculties of Agriculture and Veterinary Science, norms/Regulations of Indian Council of Agriculture Research are applicable. For faculties of Medicine, Dentistry, Nursing and AYUSH, the norms/Regulations of Ministry of Health and Family Welfare, Government of India is applicable. For faculties of education, the norms/Regulations of National Council for Teacher Education and for Engineering, Pharmacy and Management, the norms/Regulations of All India Council for Technical Education is applicable. In the instant case, the UGC regulations framed for appointment of teachers and other academic staff in Universities and Colleges are not applicable for the faculty of Agriculture and Veterinary Science and the Regulations framed by the Indian Council of Agriculture Research is applicable.

8. The notification issued by the respondent-University is in accordance with the norms/Regulations of Indian Council of Agriculture Research. The respondents 3 and 4 are eligible to be appointed as Professors. The Selection Committee of the University after taking into consideration the qualification obtained by

respondents 3 and 4, selected them for the posts of Professors. Admittedly, the writ petition filed by the petitioner challenging the non-consideration of his claim for the post of Professor has been dismissed by this Court and the same was confirmed by the Division Bench of this Court. Hence, it is not open to the petitioner to challenge the selection of respondents 3 and 4. The writ of quo-warranto cannot be issued against respondents 3 and 4, since they have possessed necessary qualification for the post of Professors. It was informed that though the 4th respondent was selected for the post of Professor, he did not report for duty. Hence, the petitioner has no right to challenge the selection of 3rd respondent and the writ petition filed by the petitioner is liable to be dismissed. Accordingly, I pass the following:

ORDER

The writ petition is dismissed as devoid of merits.