
(2008) 07 JH CK 0104

In the Jharkhand High Court

Case No : Writ Petition (S) No. 3596 of 2004

Dr. (Mrs.) Vanmala Chaudhary

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 08-07-2008

Acts Referred:

Citation : (2008) 56 BLJR 2461 : (2008) 4 JCR 76

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Advocate : Aparesh Kumar Singh, for the Appellant; M.K. Laik, Senior Standing Counsel I for Respondent No. 1, Indrani Sen Choudhuri, for Respondent Nos. 2 to 4 and Sheela Prasad, for the Respondent

Final Decision : Allowed

Judgement

Ramesh Kumar Merathia, J.—Heard the parties finally.

2. The petitioner is seeking direction upon the Jharkhand Public Service Commission (for short "J.P.S.C.") to recommend and grant promotion to her on the post of Professor under the Time Bound Promotion Scheme with effect from 9.3.1988 as recommended by the Vinoba Bhave University (for short "University").

3. It is unfortunate that the matter of time bound promotion of the petitioner is hanging since 1987. After a long delay, University sent all the papers of the petitioner to J.P.S.C. under letter dated 21.11.2005. Then a frivolous objection was taken by J.P.S.C. that since two recommendations dated 21.11.2005 and 7.4.2006 were received from University, no action was taken. University then clarified that a letter dated 6.6.2006 was sent to J.P.S.C. clarifying that the subsequent recommendation dated 7.4.2006 was superfluous; and J.P.S.C. can act on the basis of the recommendation dated 21.11.2005. Accordingly, J.P.S.C. was directed to take decision in the matter on the basis of the recommendation dated 21.11.2005 by order dated 21.11.2007 passed in this writ petition. When

the case was taken up on 7.1.2008, it was pointed out by the counsel for the petitioner that J.P.S.C. has not complied with the said order dated 21.11.2007. Then an affidavit was filed by J.P.S.C. on 9.1.2008 saying that petitioner's claim was already rejected on 15.12.2007.

4. In spite of the order dated 21.11.2007 by which the purported confusion with regard to two recommendations sent by the University was made clear; the claim of the petitioner was rejected on 15.12.2007, also on the ground that there were two recommendations. The other vague ground taken was that the petitioner did not fulfill the requisite criteria on the cut off date i.e. 22.9.2005.

5. On 29.1.2008, taking note of the said facts, J.P.S.C. was directed to pass a fresh and reasoned order with regard to the petitioner. Thereafter, J.P.S.C. has again rejected the petitioner's claim under memo dated 16.2.2008 which has also been challenged by the petitioner by way of amendment petition i.e. LA. No. 1039 of 2008.

6. The said order dated 16.2.2008 has to be set aside for the following reasons:

J.P.S.C. did not care to give reasons in spite of the direction issued on 29.1.2008, to pass a reasoned order. Further the purported reason that the petitioner was not eligible on the cut off date i.e. 22.9.2005 is also wholly unsustainable.

J.P.S.C. has tried to support the said order by supplying reasons in rejoinder to I.A. No. 1039 of 2008 filed on 17.4.2008. According to J.P.S.C., it is not bound to mechanically accept the recommendation of University. Petitioner was not eligible as:

- (i) She had no experience of guiding research at doctoral level;
- (ii) she did not publish any research paper/book;
- (iii) no research scholar guided by the petitioner has been awarded Ph.D. degree;
- (iv) the object of merit promotion under 16 years time bound promotion scheme as laid down in the Statute 7.8.99 is to recognize outstanding work by the University Teachers in the areas of teaching and research;
- (v) she did not fulfill the criteria provided in the statute relating to qualification dated 1.7.1977.

7. Clause (3) of the Statutes dated 24.12.1986 was relied which reads as under:

A Reader possessing the qualification of a University Professor prescribed by the University Grants Commission serving in a University Department or in a Degree College, managed and maintained by the University and who has completed at least 16 years of continuous service as Lecturer/Reader in one or more Universities, shall on recommendation of the Bihar State University (Constituent Colleges) Service Commission be promoted to the post of University Professor, other conditions remaining the same.

The following portion of University Grants Commission Regulation, 1991 was also relied:

(1) Professors;

An eminent scholar with published work of high quality actively engaged in research with 10 years of experience in postgraduate teaching and/or research at the University/National level institutions including experience or guiding research at doctoral level.

OR

An outstanding scholar with established reputation who has made significant contribution to knowledge.

(2) A. Reader (Open Selection):

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

8. The operative portion of the judgment dated 30.9.1997 (Annexure 20) passed in the case of Dr. Kalpnath Singh and others - C.W.J.C. No. 2014 of 1997 reads as follow:

Accordingly I hold that the petitioners are entitled to count their experience of guiding research at the doctoral level from the date they guided their respective students and not from the date such students obtains Ph.D. Degree. The interpretation it was initially given by the University for promotion of petitioners to the post of University Professor thus is the correct interpretation and not the interpretation as given by the Commission as well as the impugned Notification dated 27th February, 1997 so issued with respect to the petitioners.

...

9. From the said judgment, it appears that experience of guiding research at the doctoral level was enough and it was not necessary that the research scholar is awarded Ph.D. degree.

10. From the proforma filled by the petitioner on 9.9.1997 (Annexure 12), it is clear that (i) the petitioner obtained Ph.D. Degree on 9.11.1985; (ii) she guided student doing Ph.D; (iii) the papers were published and were presented in conferences. Petitioner also fulfilled the criteria laid down by the University Grants Commission Regulation, 1991, i.e. "good academic record with a doctoral degree "or" equivalent published work", which was required for open selection of the Reader. It also appears that J.P.S.C. mixed the criteria for open selection with the criteria of time bound promotion. It is also not denied that J.P.S.C. had accepted the recommendations of similarly situated candidates.

11. Thus it is clear that J.P.S.C. has not only disobeyed the order of this Court by not giving reasons in the impugned order dated 16.2.2008, but has also failed to

take into consideration the relevant records such as the proforma--Annexure 12) and has taken into consideration irrelevant matters while rejecting the petitioner's claim. It is not known why J.P.S.C. is bent upon rejecting the claim of the petitioner.

12. In this result, the impugned orders dated 15.12.2007 and 16.2.2008 are set aside insofar as the petitioner is concerned. In the circumstances, there is no point in asking J.P.S.C. to pass fresh order again. University is directed to grant promotion under 16 years time bound promotion scheme to the petitioner from due date within four weeks from today. The actions of J.P.S.C. are deprecated. When I was going to impose heavy cost on J.P.S.C. on the humble request of Mrs. Sheela Prasad, a nominal cost of Rs. 5,000/- is imposed which will be paid by J.P.S.C. to the petitioner within four weeks from today.

With these observations and directions, this writ petition is allowed.

Let a copy of this order be given to counsel appearing for respondents, as prayed.