

(2003) 11 AHC CK 0074
In the Allahabad High Court
Case No : C.M.W.P. No. 49586 of 2003

Dr. Neelam Atri

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 06-11-2003

Acts Referred:

Citation : (2004) 1 AWC 532 : (2004) 1 UPLBEC 631

Hon'ble Judges : Umeshwar Pandey, J; M. Katju, J

Bench : Division Bench

Advocate : Ashok Khare and Satya Prakash Pandey, for the Appellant; V.K. Upadhyaya, B.N. Singh, S.S.C. and Bai Mukund Addl, S.C., for the Respondent

Final Decision : Dismissed

Judgement

M. Katju and Umeshwar Pandey, JJ.—Heard learned counsel for the parties.

2. The petitioner has prayed for a mandamus directing the respondents to permit the petitioner to appear in the interview for the post of Lecturer (Botany) in Mahila Mahavidyalaya, Banaras Hindu University, Varanasi.

3. Heard Sri Ashok Khare, learned counsel for the petitioner, Sri V. K. Upadhyaya, for the respondent Nos. 2 to 4 and Sri Bal Mukund for the Union of India.

4. The petitioner has alleged that she has obtained First Division throughout her career and has also been awarded Ph.D. in Botany and hence, she should have been called for the interview.

5. Sri V. K. Upadhyaya, learned, counsel for the B.H.U. has shown us the letter dated 5.11.2003 of the B.H.U. addressed to the petitioner stating that she has not been called for interview, as she has been shortlisted by the Short Listing Committee. The annexures to this letter show that the criterion for short-listing adopted by the Committee was that only those who had four First Divisions and Ph.D. Degree in the concerned subject awarded on or before 31st December, 2002, will be called for interview.

6. No doubt, the petitioner has four First Divisions and has also got Ph.D. Degree in Botany, but this was awarded to her on 27.8.2003, which was after December, 2002.

7. Shri Khare, learned counsel for the petitioner, submitted that the degree was for the period prior to December, 2002. He has also submitted that the University cannot fix the time limit for acquiring the qualifications for the purpose of shortlisting.

8. We do not agree with the submission of the learned counsel for the petitioner. The procedure of shortlisting has been adopted in several institutions in this country. This became necessary since often thousands of eligible and highly qualified candidates applied, and to call all such persons for the interview, would not be practically possible. Hence, the procedure of short-listing was adopted, which has been upheld by the Courts in several decisions e.g., Madhya Pradesh Public Service Commission Vs. Navnit Kumar Potdar and another, ; Anuj Kumar v. P. Ram Chandra Rao and Ors., Writ Petition No. 41223/2003, decided by this Court on 11.9.2003 : 1996 (28) ALR 170 and Abhimanyu Singh and Anr. v. Banaras Hindu University and Anr., Writ Petition No. 40882 of 2003, decided by this Court on 11.9.2003, etc.

9. It may be mentioned that usually, it is not mentioned in the Rules or in the advertisement that short-listing may be done. Despite the absence of such a rule short-listing can be done by the Selection Committee.

10. The Selection Committee may itself fix the short-listing criteria and this has been upheld by the Courts always.

11. The other submissions of Sri Ashok Khare is that the short-listing criterion cannot be such as to fix the time limit by which the qualification must have been acquired. We are of the opinion that these matters are really matters for experts in the educational field to decide, and not by the Courts. Very recently the Supreme Court has upheld the scaling system of marking. This Court should not ordinarily interfere in matters pertaining to the educational field, and should exercise restraint, instead of being activist in this field. We are of the opinion that the short-listing criterion can include the fixation of the time limit by which the qualifications should be acquired. This is an objective criterion fixed by experts and the Court cannot sit in appeal over this criterion.

12. We, therefore, find no merit in this petition and it is dismissed.