
(2017) 12 DEL CK 0272

In the Delhi High Court

Case No : Civil Writ Petition No. 2106 Of 2016

Dr. Pushpendra Singh

APPELLANT

Vs

Delhi Technological University & Anr

RESPONDENT

Date of Decision : 11-12-2017

Acts Referred:

Citation : (2017) 12 DEL CK 0272

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : Shanker Raju, Nilansh Gaur, Avnish Ahlawat, Palak Rohmetra, Swaty Singh Malik, Yaashna Thakran

Final Decision : Disposed Of

Judgement

Sunil Gaur, J

1. This is second round of litigation for petitioner. In the first round, respondents were directed to convene a Board of Meeting, which held on 17th

July, 2015, to consider giving personal hearing to the affected faculty. As per impugned order of 29th February, 2016 (Annexure P-2), petitioner was

also given personal hearing regarding equivalence of his qualification way back in the year 2012, when petitioner was selected as Associate Professor

in pursuance of Advertisement/Recruitment Notice of 3rd December, 2011 (Annexure P-3). The essential experience as per the aforesaid

Advertisement/Recruitment Notice (Annexure P-3) for being selected as Associate Professor was as under: -

06 years as Assistant Professor

OR

Equivalent with AGP Rs. 7,000/- and above in PB-3

OR

8 years of service as Assistant Professor with the AGP of Rs. 6,000/- in the PB-3

2. Since petitioner possessed the aforesaid requisite relevant experience, therefore, he was selected as Associate Professor and had joined in July,

2012 and continued in the said position till 31st March, 2016. A Show-Cause Notice of 29th May, 2015 (Annexure P-1) was issued to petitioner

disclosing that he did not possess the mandatory experience for the post of Associate Professor (Mechanical) at the time of his selection. Petitioner

had submitted his reply to it and thereafter, vide impugned order (Annexure P-2), petitioner's appointment as Associate

3. The challenge to impugned order by learned counsel for petitioner is on the ground that petitioner had six years' experience as Assistant

Professor and so, he was qualified to be appointed as Associate Professor.

Attention of this Court is drawn by petitioner's counsel to Notification of 22nd January, 2010 issued by All India Council for Technical Education

to point out that Lecturers already in service in Pre-Revised Scale of Rs. 8,000-13,500 were re-designated as Associate Professor with Academic

Grade Pay (AGP) of Rs. 6,000/-. So, it is submitted that impugned order deserves to be set aside and petitioner ought to be put back as Associate

Professor. Reliance is placed by petitioner's counsel upon Supreme Court's decisions in Prakash Chand Meena and Others v. State of

Rajasthan and Others (2015) 8 SCC 484 and Basavaiah (Dr.) v. Dr. H.L. Ramesh and Others (2010) 8 SCC 372 to submit that once petitioner's

appointment as Assistant Professor has been duly approved by respondents' Board of Management, then, after more than three years,

petitioner's appointment cannot be declared to be void ab initio as the Rules or the Norms post Advertisement, cannot be applied now to declare

petitioner ineligible.

4. On the other hand, learned counsel for respondent-University supports impugned order and submits that since petitioner was not in the Pre-Revised

Scale of Rs. 8,000-13,500, therefore, services rendered by him as a Lecturer cannot be equated with that of an Assistant Professor. It is pointed out

that when the Advertisement/Recruitment Notice (Annexure P-3) was issued, the pay-scale of Assistant Professor was Rs. 15,600-39,100 with Grade

Pay of Rs. 6,000/- and since the required teaching experience was of 8 years

with Grade Pay of Rs. 6,000/- and so, petitioner has been rightly declared to be ineligible. Thus, dismissal of this petition is sought.

5. Upon hearing and on perusal of impugned order of 29th February, 2016 (Annexure P-2), Advertisement/Recruitment Notice (Annexure P-3),

material on record and the decisions cited, I find that petitioner's appointment as Associate Professor has been declared to be void ab initio after a

period of four years or so, by observing that he does not have requisite teaching experience of eight years and that the teaching experience of

petitioner is of three years and one month and Industry Experience is of two years and three months.

6. It is pertinent to note that the required experience for the post of Associate Professor as per Advertisement/Recruitment Notice of 3rd December,

2011 (Annexure P-3) is either of the three requirements. The first requirement is six years' experience as Associate Professor and the second

alternative requirement is equivalence with AGP of Rs. 7,000/- and above in PB-3 and the third alternative requirement is of 8 years' service as

Assistant Professor with the AGP of Rs. 6,000/- in the PB-3.

7. The Notification of 22nd January, 2010 issued by All India Council for Technical Education clearly provides that Lecturers in Technical Institutions

shall be re-designated as Assistant Professor and shall be placed in the Pay Band of Rs. 15,600-39,100 with Grade Pay of Rs. 6,000/-. In impugned

order itself, it is noted that petitioner has more than six years' experience and therefore, as per the afore-referred first requirement, as provided in

the Advertisement/Recruitment Notice (Annexure P-3), petitioner was qualified to be appointed on the post of Associate Professor and so, it was

accordingly done way back in the year 2012.

8. In the considered opinion of this Court, impugned order requiring eight years' experience for being appointed on the post of Associate

Professor, would not render petitioner's appointment as void ab initio as the essential qualification(s) in the Advertisement/Recruitment Notice

(Annexure P-3) consists of either of the three requirements and the petitioner is eligible as per the first requirement, as referred to above. Thus,

impugned order cannot be sustained and is accordingly quashed. Resultantly, petitioner's appointment on the post of Associate Professor is

revived with all consequential benefits.

9. With aforesaid directions, this petition is disposed of, while leaving the parties to bear their own costs.