

(2016) 10 JH CK 0083
In the Jharkhand High Court
Case No : Writ Petition (S) No. 4829 of 2015

Dr. Ramesh Sharan

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 26-10-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 2 JCR 534 : (2016) 4 JLJR 535

Hon'ble Judges : Shree Chandrashekhar, J.

Bench : Single Bench

Advocate : Mr. Prabhash Kumar, Advocate, for the Petitioner; Ms. Shruti Shrestha, J.C. to A.G, for the Respondent Nos. 1 and 2; Mr. Anoop Kumar Mehta, Advocate, for the Respondent Nos. 3 and 4; Mr. Prasenjit Mahak, Advocate, for the Respondent No. 5

Final Decision : Dismissed

Judgement

Shree Chandrashekhar, J. - Challenging Clause 6.1.0 in Gazette notification dated 26.06.2008, on the ground that the said stipulation is contrary to the minimum qualification for appointment to the post of Professor under UGC Regulations, 2000, the instant writ petition has been filed.

2. Heard.

3. UGC Regulations, 2000 under Clause 2.4.0 deals with promotion to the post of Reader. The essential eligibility for promotion to the post of Reader under Clause 2.4.1 reads as under:

2.4.1 A Lecturer in the Senior Scale will be eligible for promotion to the post of Reader if she/he has :

- (i) Completed 5 years of service in the Senior Scale;
- (ii) Obtained a Ph.D. degree or has equivalent published work;
- (iii) Made some mark in the areas of scholarship and research as evidenced e.g.

by self-assessment, reports of referees, quality of publications, contribution to educational innovation, design of new courses and curricula and extension activities.

(iv) After placement in the Senior Scale participated in two refresher courses/ summer institutes of approved duration, or engaged in other appropriate continuing education programmes of comparable quality as may be specified or approved by the University Grants Commission, and

(v) Possesses consistently good performance appraisal report.

4. Under Clause 2.5.0 the position of Professor has to be filled through direct recruitment by issuing all India advertisement, and promotion may be made from the post of Reader to that of Professor after eight years of service as Reader. The learned counsel for the petitioner has contended that once the petitioner has been promoted in the rank of Reader and the essential eligibility under Clause 2.5.0 only refers to eight years of service as Reader, exclusion of the persons who were promoted in the rank of Reader under Time-Bound Promotion Scheme would amount to creating a class within the class of Readers and thus, the stipulation under Clause 6.1.0 of the notification dated 26.06.2008 is in breach of Article 14 of the Constitution of India. The learned counsel, referring to the Gazette Notification dated 28.06.2010, UGC Regulations on minimum qualification for appointment of teachers and other academic staffs in universities and colleges and communication dated 24.12.1998, contends that a person having eight years of service as Reader is eligible for appointment to the post of Professor.

5. The expression "Reader" occurring in various notifications/circulars of UGC must relate to the person who has been promoted to the post of Reader under Clause 2.4.1. To a pointed query, whether the petitioner was a Lecturer in the Senior Scale at the time when he was promoted in the rank of Reader, the learned counsel for the respondent-University states that the petitioner was not a Lecturer in Senior Scale. And, this is an admitted position. One of the essential eligibility condition for promotion to the post of Reader under Clause 2.4.1 is that, a person must be working as Lecturer in the Senior Scale. In view of the fact that the petitioner lacks essential eligibility for promotion to the post of Reader, on merits in terms of Clause 2.4.1 under 2000 UGC Regulations, he is excluded from raising a claim for promotion to the post of Professor on completion of eight years" service as Reader. The petitioner was promoted on the post of Reader under Time-Bound Promotion Scheme and thus, he cannot contend that his promotion was on merits.

6. Through the Gazetted Notification dated 26.06.2008, the Statute for placement of Lecturers to the post of Lecturer in the senior scale, for promotion of Lecturer in the senior scale to the post of Lecturer in the Selection Grade/ Reader and promotion of Reader to the post of University Professor of University Departments Constituent Colleges, affiliated college including religious and

linguistic minority college, was published. Clause-5 deals with promotion of Reader to the rank of Professor. Clause-5.1.0 also provides that in addition to the sanctioned posts of University Professors, which must be filled in through all India advertisement, promotions may be made from the post of Reader to that of University Professors after eight years of service as Reader. The Statute of 2008 also deals with the Career Advancement Scheme. Under Clause 6.1.0, the scheme of promotion under this Statute has been made applicable only to Senior Lecturer, Selection Grade Lecturer and Reader promoted under Career Advancement Scheme and/or Merit Promotion Scheme as well as Lecturer and Reader directly recruited. U.G.C. Regulations on minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges issued on 28.06.2010, under clause 3.1.0, provides for direct recruitment to the posts of Assistant Professors, Associate Professors in the Universities and Colleges. Clause 3.1.0, mandates that recruitment shall be on the basis of merit through all India advertisement. At this stage, provisions under UGC Act, 1956 needs to be examined. The preamble to the UGC Act provides for establishment of University Grants Commission for co-ordination and determination of standards in Universities. Section 12 of the UGC Act, 1956 deals with the functions of the Commission. A bare reading of Section 12 would indicate that the entire thrust is on maintenance of standards of teaching and promotion and coordination of university education.

7. There is a separate Statute for the Time-Bound Promotion of Lecturers to the post of Readers and for Readers to the post of University Professor. The petitioner has been granted promotion to the post of Reader under the Time-Bound Promotion Scheme. Clause-2 of the Statute for the Time-Bound Promotion reads as under:

2. "A Reader, serving in a University Department or in a degree college, managed and maintained by the University, and has completed at least twenty five years of continuous service as teacher, not below the rank of lecturer, in one or more universities, shall on the recommendation of the Bihar State University (Constituent College) Service commission be promoted on the basis of time-bound Scheme as to the post of University Professor subject to the conditions given in provisos to clause (1) above".

8. A person like the petitioner who has been promoted under the Time-Bound Promotion Scheme can not claim promotion in the rank of Professor under the Statute or Regulations for merit promotion. In view of lack of essential eligibility qualification as a Lecturer for promotion in the rank of Reader, on merits, the petitioner obviously could not have been granted promotion under the Statute for merit promotion and this itself excludes the petitioner from raising a claim for promotion to the post of Professor under 2008 Notification. Under the UGC Notification or Regulations, to which the learned counsel for the petitioner has referred to, a Reader promoted under the Time-Bound Promotion Scheme is not entitled to be promoted on the post of Professor on completion of eight years"

service as Reader. The petitioner's case can be considered only after completion of 25 years of service as Lecturer, subject to other conditions mentioned in the Statute of Time-Bound Promotion. The stipulation under Clause 6.1.0 where under a person promoted to the post of Reader under Time-Bound Promotion Scheme is excluded from consideration for promotion to the post of Professor is not contrary to the UGC Regulations, 2000. The stipulation under Clause 6.1.0 vide notification dated 26.06.2008 is, in my view, in consonance with UGC Regulations.

9. In view of the aforesaid discussions, I find no merit in the writ petition and accordingly, it is dismissed.