

**(2019) 05 PAT CK 0065**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 6906 Of 2018

Dr. Shashi Kant Thakur

APPELLANT

Vs

Dr. Rajendra Prasad Central Agricultural University And Ors

RESPONDENT

**Date of Decision :** 30-05-2019

**Acts Referred:**

Constitution Of India, 1950 — Article 14

**Citation :** (2019) 05 PAT CK 0065

**Hon'ble Judges :** Mohit Kumar Shah, J

**Bench :** Single Bench

**Advocate :** Arjun Kumar, D.K. Sinha, Chandra Mohan Singh, Mrigank Mauli, Sanjay Kumar

**Final Decision :** Dismissed

## Judgement

1. The present writ petition has been filed for declaring that the summary score cards for Senior Scientists / Programme Coordinators for the purposes of short-listing of candidates to be called for interview for the post of Programme Co-ordinator (Senior Scientist & Head) KVKs pertaining to the advertisement dated 4.12.2017 are not in consonance with the Acts and Statutes of Dr. Rajendra Prasad Central Agricultural University, Pusa, Samastipur, Bihar inasmuch as the criteria prescribed in the summary score cards for shortlisting of candidates to be called for interview is de hors the law. The writ petitioner has further prayed for declaring that the petitioner is not entitled for less than 63 marks under the summary score cards, hence, he is eligible to be called for interview.

2. The brief facts of the case are that the Respondent- University invited applications for six posts of Programme Coordinators (Senior Scientist & Head) of the KVKs vide advertisement dated 4.12.2017, pursuant whereof, the petitioner had applied in the prescribed format along with the prescribed fee, however, subsequently, the petitioner came to know in the last week of March, 2018 that interview call letters were being sent to the candidates, however, when the petitioner did not receive the interview call letter, he had inquired about the

same and he came to know that he has not been selected for the purposes of being called for the interview. The petitioner had then pursued the matter with the authorities and on 7.4.2018, he received an email from the respondent-University wherein the marks awarded to the petitioner had been shown as 30.87 marks. From the perusal of the score card of the petitioner sent by the respondent University, it transpires that the petitioner has been awarded zero marks in the teaching / research / extension inspite of the fact that the petitioner has more than 17 years of experience in the extension education.

3. The learned counsel for the petitioner has further submitted that the respondents have illegally awarded zero marks under the heading service in remote areas / disadvantage areas (difficult areas) / KVKs, despite the fact that the petitioner has worked as subject matter specialist in the field of Nematology (Plant Protection) in KVKs under the same University for approximately 18 years i.e. with effect from 28.3.2001 as Training Associate, later on, re-nomenclatured as SMS by ICAR and he has continued on the said post till today, hence, the petitioner is entitled for six marks prescribed in the advertisement, since six marks were to be awarded to the candidates, who have completed at least three years of continuous service in specified areas / KVKs whereas the petitioner has worked for much more period.

4. It is next submitted by the learned counsel for the petitioner that in column 5 of the advertisement, there is provision for teaching / research/ extension as major function and minor functions and the petitioner is a Subject Matter Specialist-cum-Scientist and has performed the work of technology application, demonstration and adoptions and extension approaches for technology dissemination, capacity development and collaborative programmes as well as refinement of technology, field day for Mass People Awareness as per the ICAR mandates. It is further submitted that the petitioner while working as SMS-cum-Scientist performed the works as required to be performed under Clause 5 of the advertisement, hence, he ought to have been given additional 16 marks against column no. 5A of the advertisement i.e. against the teaching as major function and additional eight marks against the column no. 5D i.e. pertaining to the teaching / research/ extension as minor function.

5. It is thus contended by the learned counsel for the petitioner that if the petitioner is awarded six marks against column no. 3 of the advertisement i.e. pertaining to service in remote areas / disadvantage areas (Diffult Areas) / KVKs and 16 marks against column 5A as well as eight marks against column 5D, his aggregated marks would increase to 60.87, hence, he would be eligible to be called for interview for Senior Scientist / Programme Coordinator since as per the guidelines of the Agricultural Scientist Recruitment Board, Government of Indian, minimum marks required in the screening is 50 % for the purposes of being eligible to be called for interview.

6. Per contra, the learned counsel for the University has referred to the instructions mentioned in the advertisement for the purposes of filling the

application form, Clause 5, 12 and Clause B, C and E of Part B whereof are reproduced hereinbelow:-

"5. The candidates should attach documents as specified in the application form.

12. The decision of the University with regard the eligibility or otherwise of any candidate based upon evaluation of the application and particulars / records submitted with the application by the candidate shall be final, and the University will not enter into any correspondence in this regard with the unsuccessful candidates.

B. Part B of the application form should be filled up carefully as it is considered for evaluation and scoring.

C. Each parameter mentioned in Part-B carries a certain weightage of marks. The Screening Committee will go through the application for evaluation. Hence, the candidates are instructed to fill them legibly or even type on separate sheets.

E. Providing any false information or claim may render the candidate liable to action as deemed fit by the Board including disqualification of candidature."

7. It is thus contented that though the candidates were instructed to fill each parameters as mentioned in part B of the application form carefully, legibly and if required on separate sheets, the petitioner had failed to do so, as is apparent from the application form of the petitioner annexed to the counter affidavit filed on behalf of Dr. Rajendra Prasad Central Agricultural University, Pusa, Samastipur, in particular running page no. 100 to 104 of the writ petition, which shows that column nos. 5A, 5B are almost blank and as far as column 5C of the application form is concerned, no details have been mentioned, which disentitles the petitioner to be granted any marks and finally, as far as column 5D of the application form is concerned, no detail whatsoever has been given by the petitioner so as to entitle him to any marks whatsoever, hence, the petitioner has been rightly given zero marks against column 5 of the application form. It is submitted that even if, it is accepted that the petitioner is entitled to six marks against column 3 i.e. regarding service in remote areas / disadvantage areas / KVKs, though not admitted, still the petitioner would get  $30.87 + 6 = 36.87$  marks which is less than 50% marks required to qualify for the purposes of being called for interview, thus, there is no merit in the present writ petition and the same is fit to be dismissed.

8. It is further submitted by the learned Senior Counsel for the University that column 5A of the application form of the petitioner is blank and no information whatsoever has been mentioned in column 5A (i, ii, iii, iv & v). It is further submitted that as far as column 5B is concerned, column 5B(i, ii & iv) is blank and in column 5B (iii), some reference has been given but without any documentary evidence, hence, no marks can be given for the same. As far as column 5C is concerned, unspecific and vague information, without documentary evidence, has been mentioned, hence, no marks can be given to the petitioner

herein. It has also been stated that there is no provision in the guidelines of summary score card of ASRB for awarding marks for discharging duty as subject matter specialist-extension education in various Krishi Vigyan Kendras (KVKs).

9. The learned Senior Counsel for the University has further submitted that the University has constituted Screening Committee of eminent, experienced and reputed Agricultural Scientist of India for scrutiny of applications received against the advertisement in question dated 4.12.2017. The Screening Committee was constituted vide office order dated 6.1.2018, comprising of the following members:-

(1) Dr. N.S. Pasricha, Retired Professor, Ludhiyana

(2) Dr. Arun Kumar Sharma, Retired Director, Karnal

(3) Dr. M.S. Kunda, Principal Scientist, Port Blair.

10. Thus, the contention of the learned Senior Counsel for the Respondent-University is that the consideration, which weighed with the highly qualified experts, in assessing teaching / research experience etc. does not require any interference unless and until any mala fides or other collateral reasons are shown, which in the present case, has not been alleged by the petitioner herein. In this connection, the learned counsel for the University has referred to a judgment rendered by the Hon'ble Apex Court, reported in (1999) 1 SCC 453 (Dr. Kumar Bar Das vs. Utkal University & Others), paragraph nos. 26 to 28 whereof are reproduced hereinbelow:-

"26. The Syndicate stated that the subjective considerations which weighed with the experts in assessing teaching / research experience were known only to the Vice-Chancellor and the Director of Higher Education. They referred to the judgment of the Supreme Court in University of Mysore v. Govinda Rao which stated that the views of experts in the subject ought not to have been lightly interfered with.

27. In our view, having regard to the high qualifications of the experts and the reasons furnished by the Syndicate as being the obvious basis of the experts' opinion, the Chancellor ought not to have interfered with the view of the experts. The experts' views are entitled to great weight as stated in University of Mysore v. Govinda Rao, J.P. Kulshrestha v. Chancellor, Allahabad University, Neelima Misra v. Harinder Kaur Paintal, Osmania University v. Abdul Rayees Khan.

28. In our opinion, the Chancellor cannot normally interfere with the subjective assessment of merit of candidates made by an expert body unless mala fides or other collateral reasons are shown. In Neelima Misra case, above referred to, this Court observed, referring to the powers of the Chancellors in matters of appointment of Professors/Readers as being purely administrative and not quasi-Judicial. It was further stated: (SCC p. 761, para 29)

"29. The Chancellor, however, has to act properly for the purpose for which the

power is conferred. He must take a decision in accordance with the provisions of the Act and statute. He must not be guided by extraneous or irrelevant considerations. He must not act illegally, irrationally or arbitrarily. Any such illegal, irrational or arbitrary action or decision .... is liable to be quashed as being violative of article 14 of the Constitution of India."

In the present case, the Chancellor failed to notice that the advertisement and the UGC Regulations - even as per the show cause notice - referred only to "about 10 years' experience in teaching and/or research". Hence, it was necessary to take into account not only the teaching experience but also the research experience. The pro forma which mentioned the marks under each of the six heads did not unfortunately refer to the research experience though the advertisement did. Hence the Chancellor committed an illegality in omitting the research experience of 1 year and 5 months out of consideration. If the research experience of 1 year and 5 months and 14 days were added, the total teaching & research experience of the appellant would come to 9 years 1 month. It was not sufficient for the chancellor to just go by the pro forma inasmuch as the advertisement did refer to research experience also apart from the teaching experience.

11. The learned Senior Counsel for the University has further relied on a judgment reported in (1997) 3 SCC 124 (Osmania University vs. Abdul Rayees Khan & Anr.), paragraph no. 9 whereof is reproduced hereinbelow:-

"9. In view of the respective contentions, the question that arises for consideration is whether the view taken by the High Court is correct in law. It is not necessary to reiterate what we have already stated with regard to the merit procedure prescribed by the UGC and the steps taken by the Osmania University in nominating two external experts on the subject to evaluate the respective papers presented by G. Manohar Rao, the second respondent and the first respondent for consideration of their claim for merit promotion as Reader and the subsequent selection. It would be self-evident to show that the appellant had followed the procedure in accordance with the guidelines laid down by the UGC in referring the respective claims of the first respondent and G. Manohar Rao, the second respondent for evaluating their papers. As seen, both Dr. P. Koteswara Rao and Dr. T. S. Rama Rao are Professors of outside University. Dr. P. Koteswara Rao recommended the cases of G. Manohar Rao as well as the first respondent for consideration for merit promotion as Reader. Similarly, while Dr. T.S. Rama Rao prima facie found the first respondent to be qualified for consideration for promotion, he did not make any specific recommendation as regards G. Manohar Rao leaving it to the Selection Committee to consider the research papers submitted by G. Manohar Rao. It is not in dispute that the said Dr. T.S. Rama Rao was also a member of the Selection Committee as an outside expert. As stated earlier, he and Professor E. Gupteswar, an eminent Professor from Andhra University Law College, were outside Professors for selection of the candidates. It is seen that the Committee including two outside professors unanimously

recommended promotion of the G. Manohar Rao as Reader. In other words, the outside experts were unanimous in recommending promotion of G. Manohar Rao as Reader. The procedure for promotion from the post of Lecturer to Reader as enjoined in the statute and the guidelines laid down by the University Grants Commission, was scrupulously followed and was strictly complied with. After interviewing the candidates, the Committee unanimously found G. Manohar Rao to be eligible for promotion as Reader. In view of the above facts, the learned single Judge was not right in concluding that there was no objective evaluation by the two experts on the subject, namely, Dr. K. Koteswara Rao and Dr. T.S. Rama Rao. Equally, the learned Judge was not right in concluding that the Committee should have adopted the procedure of awarding marks for selection of the candidates. When a Lecturer is selected for promotion as a Reader, respective academic preferences and performance, teaching experience and capacity to teach and other teaching material relevant to the subject in that behalf were considered by the Committee. It is not necessary, like in selection of class II and Class III officers, to award marks to each candidate for their selection. What is required to be done is dispassionate and objective selection but not arbitrary or colourable selection. When the University nominated seven members including a High Court Judge and selected the Readers of Professors on objective test, there emerges no arbitrary selection. As held by this Court in J.P. Kulshrestha case ultimately, this Court has to leave it to the academic body to select the best candidates suitable and fit to teach the subject. As held by this Court.

"Rulings of this Court were cited before us to hammer home the point that the Court should not substitute its judgment for that of academicians when the dispute relates to educational affairs. While there is no absolute ban, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies. But University organs, for that matter any authority in our system, is bound by the rule of law and cannot be a law unto itself. If the Chancellor or any other authority lesser in level decides an academic matter, or an educational question, the Court keeps its hands off; but where a provision of law has to be read and understood, it is not fair to keep the court out."

In view of the above statement of law, with which we are in respectful agreement we hold that generally the Court may not interfere with the selection, relating to educational affairs, and academic matters may be left to the expert body to select best of the talent on objective criteria. What is the objective criteria is a question of fact in each case. Each case depends upon its own facts and the circumstances in which the respective claims of competing candidates has come up for consideration. No absolute rule in that behalf could be laid. Each case requires to be considered on its own merit and in its own setting, giving due consideration to the views expressed by the educational experts in the affairs of their administration or selection of the candidates."

12. The learned Senior Counsel for the University has lastly relied on a judgment rendered by the Hon'ble Apex Court, reported in (1990) 2 SCC 746 (Neelima Mishra vs. Harinder Kaur Paintal & Others), paragraph no. 32 whereof is reproduced hereinbelow:-

"It is not unimportant to point out that in matters of appointment in the academic field the Court generally does not interfere. In the University of Mysore v.C.D. Govind Rao, this Court observed that the Courts should be slow to interfere with the opinion expressed by the experts in the absence of mala fide alleged against the experts. When appointments based on recommendations of experts nominated by the Universities, the High Court has got only to see whether the appointment had contravened any statutory or binding rule or ordinance. The High Court should show due regard to the opinion expressed by the experts constituting the Selection Committee and its recommendation on which the Chancellor has acted. See also the decisions in J.P. Kulshreshtha v. Chancellor, Allahabad University, Raj Bhavan and Dalpat Abasahed Solunke v.B.S. Mahajan."

13. I have heard the learned counsel for the parties and perused the materials on record. This Court finds that two issues have been raised by the petitioner herein one regarding the petitioner having been illegally awarded zero marks against column 3 of the advertisement / application form pertaining to service in remote areas / disadvantage areas / KVKs and the other being the one wherein the petitioner has been awarded zero marks against column 5 of the advertisement / the application form of the petitioner herein. As far as the first issue is concerned i.e. award of zero marks against column 3 of the advertisement pertaining to service in remote areas / disadvantage areas/ KVKs, the learned Senior Counsel for the Respondent-University has not vehemently opposed the same and has virtually conceded that the petitioner may be entitled to six marks under the said heading, hence, this Court is not going into the said issue raised by the petitioner herein. Now coming to the second issue regarding grant of 16 marks against column 5 of the advertisement / the application form of the petitioner herein, this Court is of the view that a bare perusal of the application form of the petitioner herein, annexed to the counter affidavit filed by the Respondent-University, would show that as far as column 5A is concerned, the same is blank, hence, the petitioner is entitled to zero marks. As far as column 5B (ii & iv) are concerned, the same are also blank, thus, the petitioner is not entitled to any marks and as far as column 5B(iii) is concerned, some vague details have been given, but the petitioner has not been able to show that he has annexed any documentary proof with regard to the same, as required under Clause 5 of the instructions given in the application form, as mentioned hereinabove.

14. Similarly, as far as Clause 5C is concerned, though, the petitioner has mentioned unspecific and vague details in his application form under the said clause, however, the same are of no value in absence of the same being not

decipherable and / or documentary proof having not been attached to the application form, hence, the Screening Committee, comprising of eminent, experienced and reputed Agricultural Scientist of India, have rightly assessed the merit of the petitioner herein and not given any marks under the said Clause 5. Thus, even if, the petitioner gets six marks against Clause 3 of the advertisement and zero marks against Clause 5 of the advertisement, as aforesaid, still the petitioner would not qualify for interview, hence, in light of what has been discussed hereinabove, the present writ petition is devoid of merit and has to fail miserably. Last but not the least, it is a trite law, as discussed hereinabove, that the Court may not interfere with the selection process regarding to educational affairs and the academic matters may be left to the expert body to select the best of the talent on objective criteria, which is a question of fact in each case unless and until mala fides or other collateral reasons are definitively shown to be prevailing, which is not the case in the present matter.

15. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, I do not find any merit in the present writ petition, hence, the same is dismissed.