
(2005) 11 DEL CK 0044
In the Delhi High Court
Case No : LPA No. 1973 of 2005

Dr. V.K. Agrawal

APPELLANT

Vs

University of Delhi and Others

RESPONDENT

Date of Decision : 28-11-2005

Acts Referred:

Citation : (2005) 125 DLT 468

Hon'ble Judges : Markandeya Katju, C.J.; Madan B. Lokur, J

Bench : Division Bench

Advocate : Rajeev Saxena, for the Appellant; S.K. Luthra, for the Respondent

Final Decision : Dismissed

Judgement

Markandeya Katju, C.J.—This appeal is directed against a judgment of the learned Single Judge dated 20.07.2005. Heard counsel for the parties and perused the record.

2. The facts in detail have been set out in the judgment of the learned Single Judge and hence we are not repeating the same except where necessary.

3. The facts lie in a short compass. The appellant joined the service of Moti Lal Nehru College as a Lecturer in Physics in 1969. The aforesaid college is a constituent college recognised as such by the Executive Council of Delhi University in accordance with the provisions of the Act No. VIII of 1922 as amended.

4. The appellant retired on 15.7.2004 on attaining the age of superannuation of 62 years. However, the appellant submitted an application on 18.11.2003 to his college for reemployment along with his bio-data under Ordinance XII and the revised Executive Council Guidelines.

5. Ordinance XII Rule 3-A(2) of the University Ordinance provides:

"The Governing Body of a College or an institution may, with the approval of Vice-

Chancellor, re-employ any distinguished teacher after he has attained the age of 62 years for a period not exceeding 3 years on the whole but not beyond his completing the age of 65 years, if the Governing Body is satisfied that such re-employment is in the interest of the College or Institution."

6. On receiving the application the Principal of the college recommended the appellant's case for reemployment vide his letter dated 24.11.2003 and submitted it to the Governing Body of the college, which in turn took a decision on 3.12.2003 to recommend his case for reemployment to the Vice-Chancellor.

7. The relevant part of the resolution of the Governing Body dated 12.12.2003 states:

"After due deliberation, the Committee resolved to recommend the case of re-employment to the University of Delhi in respect of Dr. V.K. Agarwal."

8. It is alleged in para 28 of the writ petition that only formal assent of the Vice-Chancellor is required for the re-employment and it is really the Governing Body of the college which has to take a decision on the matter. However, bypassing all norms of an objective, judicious and fair consideration for grant of approval for re-employment of the appellant, the Vice Chancellor of the University rejected the recommendation of the Governing Body on the advice of an advisory committee appointed by him. Aggrieved the appellant filed a writ petition in this Court.

9. A counter affidavit was filed by the college and we have perused the same. In para 9 it is stated that a teacher can be reemployed only if the Vice Chancellor approves his appointment. The University has framed guidelines for taking up the case of teachers applying for reemployment and these guidelines were laid down by the Executive Council vide resolution No. 22 dated 11.4.1981, which were revised by the Executive Council's resolution No. 159 dated 22.01.1991. The Governing Body of the college made a recommendation on the appellant's representation and sent it to the Vice-Chancellor. However, a communication was received from the University vide letter dated 29.7.2004 whereby the college was informed that it is not possible to approve the recommendation of the Governing Body for grant of reemployment to Dr. V.K. Agarwal. On receiving this letter of the University the college informed the appellant accordingly.

10. A counter affidavit was also filed by respondents No. 1 and 2. In para 1 of the same it is stated that the appellant has no vested right to be reemployed. The conditions for reemployment are that the teacher should be a distinguished teacher and that the service of such teachers are required in the interest of the college.

11. On receiving the recommendation of the Governing Council for reemploying the appellant the Vice-Chairman sent it to an advisory committee as per Executive Council resolution 22 dated 11.4.1981 and Executive Council resolution 151 dated 22.1.1991. The advisory committee consists of experts in the subject

who after examining and scrutinizing the various aspects e.g. bio-data, teaching experience, academic excellence, research publications, research work etc. did not recommend the appellant's case for reemployment. The decision of the Delhi University was conveyed to the college by letter dated 29.7.2004, copy of which is annexed as Annexure R-1 to the counter affidavit.

12. In para 18 of the counter affidavit it is denied that there were any mala fides in the matter. The case of the appellant was considered by the advisory committee and he was not found fit for re-employment.

13. As regards the appellant's allegations that other retired teachers have been reemployed it is stated in para 32 that the advisory committee has dealt with other cases on their own merit which has no relevance with this case.

14. On the facts of the case we find no merit in this appeal. It is not for this Court to say whether a teacher is a distinguished teacher or not. This Court does not consist of experts in the subject concerned, and the Court must ordinarily defer to the opinion of the experts. The advisory committee consists of experts, who considered the case of the appellant and did not recommend grant of reemployment to him. We cannot sit in appeal over the decision of the advisory committee, which was accepted by the Vice-Chancellor.

15. In Reserve Bank of India and Another Vs. C.L. Toora and Others, the Supreme Court held that the High Court should not set aside the selection held by a high power selection board. This is the view which has consistently been followed by the Supreme Court. This Court cannot ordinarily interfere with the decision of selection committees consisting of experts vide National Institute of Mental Health and Neuro Sciences Vs. Dr. K. Kalyana Raman and others, . The advisory committee appointed by the Vice-Chancellor consists of experts, and we cannot sit in appeal over its decisions.

16. Learned counsel for the appellant submitted that while reasons have to be recorded in granting reemployment no reasons are required in rejecting the prayer for reemployment. He submitted that this is arbitrary. We cannot agree with this contention in view of the aforesaid decision of the Supreme Court where it has been held that no reasons need be given by the selection committee unless required by the statute.

17. Learned counsel for the appellant submitted that the Vice-Chancellor had to apply his mind himself instead of referring the matter to the advisory committee. We do not agree. The Vice-Chancellor, though no doubt a man of great academic distinction, cannot possibly be an expert in every subject. Hence he can certainly take the opinion of an advisory committee consisting of experts, particularly when guidelines have been framed for this purpose by the Executive Council.

18. Learned counsel for the appellant submitted that the appellant is a person of great distinction. As already stated above it is not for this Court to decide whether a person is of distinction or not as that is a matter for experts to decide.

This Court cannot interfere with such a decision of experts unless there is a violation of some statute or there is some shocking arbitrariness, which is not so in this case. It is well settled that in academic/educational matters Courts should be reluctant to interfere vide *Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another*, *Dr. J.P. Kulshreshtha and Others Vs. Chancellor, Allahabad University and Others*, *The University of Mysore and Another Vs. C.D. Govinda Rao and Another*, etc.

19. In *The The Chancellor and Another Vs. Dr Bijayananda Kar and Others*, the Supreme Court observed:

"This Court has repeatedly held that the decisions of the academic authorities should not ordinarily be interfered with by the courts. Whether a candidate fulfills the requisite qualifications or not is a matter which should be entirely left to be decided by the academic bodies and the concerned selection committees which invariably consist of experts on the subjects relevant to the selection. In the present case Dr. Kar in his representation before the Chancellor specifically raised the issue that Dr. Mohapatra did not possess the specialization in the "Philosophical Analysis of Values" as one of the qualifications. The representation was rejected by the Chancellor. We have no doubt that the Chancellor must have looked into the question of eligibility of Dr. Mohapatra and got the same examined from the experts before rejecting the representation of Dr. Kar."

20. In *Secy. (Health) Deptt. of Health and F.W. and Another Vs. Dr. Anita Puri and Others*, the Supreme Court held that the Court should not ordinarily interfere with the selection and evaluation by expert bodies unless allegations of mala fides are made out. In that decision the Supreme Court observed:-

"It would be prudent and safe for the courts to leave the decisions on such matters to the experts who are more familiar with the problems they face than the courts. If the expert body considers suitability of a candidate for a specified post after giving due consideration to all the relevant factors, then the court should not ordinarily interfere with such selection and evaluation."

21. For the reasons given above, there is no force in the appeal and it is dismissed.