
(2009) 08 DEL CK 0127

In the Delhi High Court

Case No : Writ Petition (C) No. 226 of 2009

Dr. Yojna Kalia

APPELLANT

Vs

The University of Delhi and Another

RESPONDENT

Date of Decision : 18-08-2009

Acts Referred:

Delhi University Ordinances — Ordinance 12, Ordinance 13

Citation : (2009) 08 DEL CK 0127

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

**Advocate : Anurag Kumar Aggarwal and Umesh Mishra, for the Appellant;
Maninder Acharya and S.S. Ahluwalia, for the Respondent**

Judgement

Sunil Gaur, J.—Petitioner-Dr. Yojna Kalia, is a Doctorate in Hindi and she seeks direction to respondent No. 2 - Desh Bandhu College (hereinafter referred to as the "respondent-College") to appoint her against permanent post of Lecturer in Hindi Department. Petitioner claims to be eligible for the aforesaid appointment on the basis of being on the top in the panel said to have been drawn by the Selection Committee in July, 2008. Reliance has been placed upon Advertisement, Annexure P-6, to point out that two permanent posts of Lecturers in Hindi Department were advertised by respondent-College and the College had reserved the right to change the nature/number of posts advertised. As per Corrigendum, Annexure P-7, out of these two post of Lecturers, one was reserved for Scheduled Tribe. The date of the Corrigendum is said to be 1st July, 2008, though it is not so mentioned in the Corrigendum, Annexure P-7.

2. Petitioner claims that still there were two posts of Lecturers in Hindi Department of respondent-College but instead of selecting two lecturers from the panel drawn by the Selection Committee, two guest Lecturers were appointed for the purpose of teaching, which is against Ordinance XIII of the calendar of University of Delhi, which provides that appointment of guest teachers should be kept at barest minimum. According to the petitioner, despite Representations,

Annexure P-9 & P-10, the guest Lecturers still continue in the Hindi Department of respondent No. 2. In this petition, a direction is sought to respondent No. 2/ College to fill up the vacancy of two permanent post of Lecturers existing in Hindi Department of respondent-College and the same be done on the basis of the panel drawn by the Selection Committee in July, 2008.

3. Stand of the respondent-College is that Selection Committee had prepared a panel of candidates belonging to General Category for consideration of filling up of any vacancy which may arise within next six months. However, it is denied by respondent-College that two more vacancies arose after filling up the vacancies, as mentioned in the Advertisement, Annexure P-6, and infact, one vacancy did arise in the Department of Hindi, in the respondent-College and teaching work load, as against this vacancy is being shared by two guest Lecturers. Clause 3(1) of Ordinance XII of calendar of University of Delhi (hereinafter referred to as the "respondent-University") , is referred to Communication of 3rd November, 2008, Annexure R-1 of respondent-University, whereby every College under the respondent-University is required to follow Ordinance XII while making appointment of teachers.

4. The mandate of the respondent-University, as contained in Annexure R-1, to the respondent-College, deserves notice and it reads as under:

Your attention is invited to Clause 3(1) of Ordinance XII of the University on the subject cited above which provides as under:

All vacancies of teachers shall be filled after advertisement and by open recruitment, save in the cases of vacancies, appointment to which may be required to be made urgently in the interest of organization of teaching in the College concerned for a period not exceeding four months or beyond the term in which it is made whichever is earlier.

Every College is required to follow the above provision scrupulously while making appointment of teachers. Vacancies arising after publication of an advertisement should be advertised either by issuing a fresh advertisement or through corrigendum. In the latter case, last date of receiving applications will be suitably extended so that prospective candidates can have a notice of the additional vacancies and may apply. This will not only meet the requirement of Ordinances of the University, but will also help the Colleges in attracting suitable candidates for teaching posts.

It may be noted that any violation in this regard would make the appointments null and void.

5. In view of the aforesaid, the stand of the respondent- College is that it is bound by the directions as contained in Communication, Annexure- R-1, referred to above and these directions override Note-3 of the Advertisement, Annexure P-6, which permitted the respondent-College to increase the number of posts advertised.

6. Respondent- University in its counter affidavit has also maintained that there was only one vacancy of Lecturer in Department of Hindi in respondent-College and respondent-College was restrained by Communication, Annexure R-1, to fill up any vacancy without advertising it. The stand of the respondent-University is that the existing vacancy cannot be filled up from the earlier panel as the said vacancy was not advertised. Communication, Annexure R-1, is sought to be justified by contending that once a post is advertised, it gives an opportunity to all eligible candidates to apply and the respondent-College also gets a wider choice.

7. Although rejoinder to the counter of respondent No. 2/ College has been filed by the petitioner, but no rejoinder to the counter of respondent No. 1/University of Delhi, has been filed. Meaning thereby, there is no challenge to the communication/ directions issued by respondent No. 1 vide letter, Annexure R-1.

8. After having heard both the sides and upon perusal of material on record, I find that the petitioner cannot rely upon Advertisement, Annexure P-6, to claim appointment from respondent No. 2 on the basis of the panel/ select list, drawn by the Selection Committee in July, 2008, because an embargo has been put by respondent-University upon the respondent-College vide Communication/ direction, Annexure R-1, which is not under challenge in these proceedings. This Court is of the considered view that unless and until the interpretation of Ordinance XII, as made by the respondent-University, in its Communication, Annexure- R-1, is challenged by the petitioner by suitably amending the writ petition, the relief prayed for cannot be granted to the petitioner. No such liberty has been sought by the petitioner.

9. In the light of the aforesaid, this petition is dismissed. However, respondent-College is directed to advertise the existing vacancy expeditiously as it cannot be permitted to avail of the services of the guest/ part time Lecturers for an indefinite period.

10. With aforesaid directions, this petition stands disposed of.

11. No costs.