
(2014) 10 AP CK 0035
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 513 of 2012

Janardhan Rao Cheeli

APPELLANT

Vs

The University of Hyderabad

RESPONDENT

Date of Decision : 31-10-2014

Acts Referred:

Citation : (2015) 4 ALD 519 : (2015) LabIC 1071

Hon'ble Judges : L.N. Reddy, J;Challa Kodanda Ram, J

Bench : Division Bench

Advocate : Shiva, Advocate for the Appellant; V.R.N. Prashanth, Advocate for the Respondent

Judgement

L. Narasimha Reddy, J.—The unsuccessful petitioner in W.P. No. 5557 of 2011 filed this writ appeal. The facts, that gave raise to the filing of the writ appeal, are as under:

"The University of Hyderabad, 1st respondent herein issued an advertisement, dated 01.01.2010 inviting applications for selection and appointment of candidates in various posts, spread over different Departments. As regards the Department of Mass Communication, three posts of Associate Professors were notified. Out of them, one was reserved for S.C. candidates and two were unreserved. The qualifications prescribed for the post are that (i) a candidate must have good academic record with Ph.D Degree in the concerned discipline; (ii) 55% marks or equivalent grade in the Master's Degree level; (iii) a minimum of 5 years of experience in teaching/ research and a minimum of 5 publications of stipulated standard; (iv) contribution to educational innovation, design of new curricula etc.; and (v) a minimum score as stipulated in the Academic Performance Indicator."

2. In the note added to the advertisement, it was mentioned inter alia that the expression "good academic record" would connote that the candidate must have obtained on an average, 50% of marks in two public examinations/degrees

immediately preceding the Master's Degree.

3. A Corrigendum to the said advertisement was issued on 23.03.2010. For the post of Associate Professor in Mass Communication, the alternative to the Ph.D Degree in communication was provided. Published work of doctoral standard or media production work of excellence was treated as equivalent to that. Slight change was made as to the other qualifications. The connotation of the expression "good academic record" however was retained.

4. The appellant and several others submitted applications for the post. The 1st respondent appointed a scrutiny committee comprising of 7 senior professors. The committee scrutinized the applications and found the application of the appellant to be in order. However, at a later stage, the Assistant Registrar (HR) of the University raised objections to the effect that the appellant does not have "good academic record", since he scored only 44%, in the Degree examination. On a representation made by the appellant, the Vice-Chancellor and Dean of the Faculty examined the matter and ultimately, he was permitted to appear in the interview.

5. The selection committee conducted a colloquium on 13.10.2010 and interview on 14.10.2010. In all, 11 candidates appeared for the post of Associate Professor in Mass Communication. The selection committee placed the appellant at Serial No. 1. Thereby, he was to be appointed against even the unreserved vacancy, leave alone the reserved vacancy. However, a note is said to have been added to the effect that the selection of the appellant is subject to verification of the academic record. In the subsequent analysis, the appellant was disqualified and thereby, was denied the appointment. Hence, he filed the writ petition.

6. The appellant pleaded that once the Scrutiny Committee comprising of 7 senior professors found him qualified, there was no basis for the Assistant Registrar (HR) to interfere with the same and at any rate, the Vice-Chancellor passed an order permitting him to appear in the interview and thereby the scrutiny became complete. He has also stated that the conclusion arrived at by the Selection Committee is final and that there was no basis for the University to deny the appointment to him.

7. The respondents filed a detailed counter affidavit. According to them, the appellant did not have "good academic record", though he was found to have fulfilled other qualifications and was selected by the Selection Committee. It was pleaded that the appellant has also made representations realizing that the marks secured by him in the Degree examination are inadequate and prayed for relaxation. Learned Single Judge dismissed the writ petition by recording a finding that the appellant did not have good academic record.

8. Sri Shiva, learned counsel for the appellant submits that the functions to be undertaken or the duties to be discharged by an Associate Professor in Mass Communication are typical in nature and obviously for that reason, the University itself has revised the qualifications for the post. He contends that realising that

the candidates who are experienced and trained in the field cannot be expected to have research degree, the University itself did not make it compulsory and that being the case, the respondents have disqualified the appellant only on the ground that he did not have 50% of marks in the degree examination. He further submits that the expression "good academic record" was explained to be the one of "obtaining on an average 50% of marks in two public examinations preceding degree" and viewed in this context, average of marks obtained by the appellant would be 66% percentage in P.G. Diploma in Acting + 44% in B.A., divided by two i.e., 55%, and thereby the Rule was complied with and obviously for that reason, the Scrutiny Committee found him eligible.

9. Learned counsel contends that though the Assistant Registrar made an effort to unsettle the findings of the Scrutiny Committee, the Vice-Chancellor intervened and permitted the appellant to attend the interview after consulting the Dean. Learned counsel submits that the Selection Committee found the appellant so meritorious that though he belongs to S.C. category, he was placed at No. 1 and thereby enabled him to get appointed against unreserved vacancy, but all this was set at naught by an employee of the University administration, by once again subjecting him to scrutiny of the qualifications. He contends that the scrutiny of the academic qualifications or eligibility must precede the selection, but not succeed it. According to the learned counsel, the learned Single Judge did not take certain important aspects into account and dismissed the writ petition.

10. Sri V.R.N. Prashanth, learned Standing Counsel for the respondents, on the other hand, submits that though the important qualifications such as Ph.D. were relaxed in respect of the post of Associate Professor in Mass Communication, the requirement as to "good academic record" was retained. He submits that the expression "good academic record" would connote that in each of the two public examinations preceding the Master's Degree, the candidate must have secured at least 50%; and even if the relaxation, which is provided for in favour of S.C. candidates, is extended to the appellant, he would fall short of it, by 1% in the degree examination. He contends that the scrutiny undertaken by the committee is provisional and tentative and when it was noticed that the appellant did not hold good academic record, he was not issued the interview call. He contends that the intervention of the Vice-Chancellor was only to the extent of enabling the appellant to appear in the interview, subject to further scrutiny and notwithstanding the fact that he was placed at Serial No. 1 in the list of selected candidates, the appointment could not be issued, on account of not holding "good academic record". He has placed reliance upon certain precedents.

11. The University has evolved a detailed procedure, in the context of making appointments to various posts. Quite a large number of vacancies are filled from time to time and the response to the advertisements is also enormous. The verification of qualifications happens to be an important step in this behalf. Separate qualifications are prescribed for different posts in various Departments.

Obviously for that reason, the Vice-Chancellor constitutes committees for the Posts in the concerned Departments. For the Department of Mass Communication, Committee was constituted through proceedings, dated 18.08.2010 with the following Members:

- "1. Prof. Vinod Pavarala, Head of the Department & Chairman
2. Mr. Vasuki Belavadi, Redaer-Member
3. Prof. K.P. Jayasankar, TISS, Mumbai-External member
4. Prof. Ifthekar Ahmed, FTII, Pune-Minorities Representative
5. Prof. Tutun Mukherjee, Comparative Literature-Women Representative
6. Prof. K. Pulla Rao, Deptt. Of History - OBC Representative
7. Dr. K. Seshagiri Rao, Deptt. Of Plant Science-SC/ST Representative"

12. The committee scrutinized the applications. A list of 35 candidates for the post of Associate Professor was prepared. The name of the appellant figured at serial No. 31 and it reads:

Sl. No.

Name of the Candidate

Category

Recommended/Not

Recommended

Remarks

31.

Janardhan Rao Cheeli Industry

SC

Recommended

Media Experience

13. Once the committee found the appellant to be eligible, the next step ought to have been to evaluate his caliber or performance in the interview. However, the recommendations of the committee comprising of 7 Professors were almost reviewed or overruled by the Assistant Registrar(HR) of the University. He reassessed the entire exercise undertaken by the committee, and against the name of the appellant, he observed as under:

Sl. No.

Name of the Candidate

Category

Remarks of Committee while Recommending

Observations of Additional HR team

Remarks

18.

CMR 102032 Janardhan Rao

SC

Media Industry Experience

1. Does not have Ph.D

2. No Good

2nd post Cheeli not eligible Academic as per Record rules

14. We take serious exception to the manner in which the Assistant Registrar(HR) has conducted himself. He could have, at the most assisted the committee, when it was evaluating the candidates. He virtually overruled, if not annulled the findings of the committee, which was constituted by the Vice-Chancellor. The appellant was not called to the interview on the basis of the remarks made by the Assistant Registrar(HR). On noticing that he was not called for interview, the appellant made a representation. On such representation, a note was circulated before the higher authorities of the Administration of the University. In the note, a doubt was expressed as under:

"Is his experience in media production work a media production work of excellence"

15. It appears that the Dean Faculty endorsed "yes". The Vice-Chancellor in turn directed that the candidate may be given benefit of doubt and be called for interview. It is important to note that no doubt whatever was expressed about his having good academic record. The matter was virtually put at rest, with the endorsement of the Dean and Vice-Chancellor. The appellant was called for interview and the selection committee rated as No. 1. Though he belongs to S.C. category, he became eligible to be appointed against O.C. Category. However, underneath his name, figured at serial No. 1, the following was added in brackets:

"(after verifying his eligibility)"

16. On the basis of this, the order of appointment was not issued to the appellant, though other two candidates were appointed. From this, it becomes clear that though the selection committee found that the appellant was selected, he was denied appointment, on the ground that he is not eligible.

17. The selection process is broadly in two parts. The first is the verification of

eligibility of a candidate, who submitted his application in response to the advertisement. It is only such candidates, as are found to be eligible to apply, that are cleared for being issued interview calls. The second stage is assessment of the relative merit of the candidate by the selection committee.

18. The University ensured objectivity and perfection at both the levels. Though the verification of eligibility is by and large a ministerial and administrative activity, it appointed a committee comprising of seven senior professors. The committee meticulously verified the individual applications and offered its remarks. It is not in dispute that the committee cleared the case of the appellant. With that, the verification as to eligibility ought to have been treated as closed and final.

19. However, the Assistant Registrar (HR) raised a query about it and even that has set at naught the endorsement made by the officers in the higher administration of the University. It must be noted that the verification of eligibility, wherever necessary must precede the assessment of the merit of the candidate by the selection committee. It cannot be relegated to a later stage. Secondly, it is no part of the duty or power of the selection committee to express its view on the eligibility of the candidates, just as a scrutiny committee cannot assume to itself, the task of selection. Therefore, the endorsement said to have been made by the selection committee after verifying his eligibility does not have effect of diluting its assessment of the appellant as most meritorious and placing him at serial No. 1 in the list of selected candidates.

20. Assuming that there is some scope to discuss about the "good academic record" of the appellant, the record discloses that the approach of the University is not correct. The University wanted to ensure that the candidates with average or above average academic record are considered. The purport of the expression "good academic record" is explained in Clause (e) of the Advertisement. It reads:

"(a) Under the term "good academic record" the candidate must have obtained on an average of 50% marks in two public examinations/degrees immediately preceding the Master's degree."

21. From this, it becomes clear that 50% of the marks are to be obtained "on an average" in two public examinations/degrees. It means that even if the marks obtained in one of the public examinations is less than 50%, the candidate can be treated as holding good academic record, if in the other public examination, he secured more marks to such an extent that the average is 50%. Any other meaning would render the expression "on an average" redundant. The appellant secured 66% marks in P.G. Diploma in Acting and 44% marks in B.A. The aggregate of it is 55%. The University however proceeded as though 50% must be in each of the two public examinations. That would have been possible, if only, the words "on an average" are followed by the words "in each of the examinations". Further, no one uses the words "on an average" to connote the marks obtained by a candidate in an examination. Such marks are total and not

average. Obviously realizing this, the University is said to have changed the relevant Clauses in the subsequent years to mean that percentage of marks should be in each of the examinations. Therefore, the view taken by the University that the appellant does not have "good academic record" cannot be accepted.

22. Further, whatever may have been the importance added to the "good academic record", in case of Associate Professors of other subjects, it virtually lost significance, as regards the post of Associate Professor in Mass Communication. The reason is that even the requirement of holding Ph.D., which is common to all the posts, was done away with, in the case of candidates who have experience and creativity. The work of the appellant was found to be of that order and despite the fact that he does not hold Ph.D., the selection committee rated him as most meritorious. Once the selection committee has rated the performance of the appellant as the best, the University cannot fall back upon the hyper technicalities, that too which are not impermissible in law, and deny the most meritorious candidate, that too, belonging to Scheduled Caste of his accrued legitimate right.

23. Hence, the writ appeal is allowed and the order under appeal is set aside. The writ petition is allowed. The selection of the appellant herein by the selection committee shall be treated as without any riders and he shall be appointed as Associate Professor on par with the other candidates who were issued orders of appointment in pursuance of the same advertisement and selection. However, he shall not be entitled to any arrears of salary.

24. The miscellaneous petition filed in this writ appeal shall also stand disposed of. There shall be no order as to costs.