
(2010) 07 AHC CK 0231

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 42121 of 2010

Kirti Raje Singh

APPELLANT

Vs

University of Allahabad and Others

RESPONDENT

Date of Decision : 22-07-2010

Acts Referred:

Citation : (2010) 07 AHC CK 0231

Hon'ble Judges : Sunil Ambwani, J and Kashi Nath Pandey, J

Final Decision : Dismissed

Judgement

1. Heard Shri Shashi Nandan, Senior Advocate assisted by Shri M.M. Sahai for the petitioner. Sri P.S. Baghel, Senior Advocate appears for the University.

2. The petitioner was appointed as Guest Lecturer (Botany) in pursuance to her selection by a Selection Committee after advertisement in C.M.P. Degree College, Allahabad affiliated to University of Allahabad on 27.11.2008. She was permitted to take classes from 27.11.2008 to 10.2.2009. The post was advertised again for the next academic year in August, 2009. The petitioner again applied and was selected by the duly constituted Selection Committee. Her term has come to an end in the month of February, 2010.

3. By this writ petition, the petitioner has prayed for directions to quash the advertisement dated 10.7.2010 published in Hindi daily "Dainik Jagaran" advertising the same post to be filled up by a Guest Lecturer in different subjects including the subject of Botany and has prayed to allow her to continue as guest lecturer until regular selection is made by the University without any claim for regularization.

4. Shri Shashi Nandan, Senior Advocate submits that there is no object to be achieved and rationale in filling up the post of guest lecturer every year by selections when a duly qualified and selected candidate is available with experience of previous year. The College should not be allowed to adopt "hire and fire", policy every year and to substitute petitioner with another person. The

petitioner is M.Sc. and D. Phil (2001). Since she was awarded D. Phil in 2001, she is exempted from qualifying the National Eligibility Test. She has been treated arbitrarily in violation of Articles 14 and 16 of the Constitution of India in requiring her to appear in selection every year for the same post.

5. Shri Shashi Nandan submits that the Ordinances of the University applicable 1 to the affiliated Colleges provide that where a person, referred to in sub clause (a) of Ordinance XLIV (6), is engaged in prescribed manner by an academic unit as guest lecturer in an academic year, continuous to be eligible for such engagement, he may be reengaged as such by such academic unit for the immediately subsequent academic year, without recourse to the procedure specified under the provisions of sub clause (g), but such reengagement without recourse to the

" said procedure, shall not be permissible beyond three consecutive academic years.

6. Shri Shashi Nandan submits that with the outer limit of three years, the discretion of the College to engage the guest lecturer every year upto the maximum of three years should be exercised reasonably. The petitioner was duly selected by the Selection Committee and is teaching regularly without any complaint against her. The College, therefore, should be permitted to exercise the discretion to reengage her for the third year.

7. Shri P.S. Baghel, Senior Advocate appearing for the University of Allahabad submits that the second proviso to Ordinance XLIV (6) (h) created a serious problems for the University. The members engaged from sessions to session basis started claiming permanent employment as faculty member or engagement as guest lecturer without any interviews. The Executive Council, therefore, decided in its meeting dated 20.1.2009 to delete the proviso from the Ordinances after which part time lecturer and guest faculty members have no right to claim reengagement.

8. Shri Baghel submits, that the petitioner was appointed as Guest Lecturer on a fixed honorarium for specific period. Her appointment in terms of condition No. 2 of the appointment letter annexed as Annexure1 was subject to the provisions laid down in Ordinance XLIV of the University. She does not have a right to claim further engagement for subsequent period without fresh selection and interviews. He has relied upon judgments of this Court in Birendra Bahadur Singh v. Chancellor, Allahabad University and others, 2004 (2) ESC 1030 (AII)(DB); Arvind Kumar Singh (Dr.) v. University of Allahabad and others, 2007(1) ADJ 526 (DB) and Dr. Virendra Kumar Singh v. Vice Chancellor, Mahatama Jyotiba Phule Rohilkhand University, Bareilly and others, 2006 (1) ADJ 438 (AII) (DB), in which the Division Benches of this Court have not accepted the arguments that the part time/guest/ad hoc lecturer should be allowed to claim any right to continue on the post from the period of his engagement on contract. Once the period of contract has come to an end, the part time lecturer has no right to continue and

if he wants reengagement, he must appear in the selections.

9. The availability of the substantive post and the condition that the appointment of Guest Lecturer can be made only on substantive post cannot be treated as grounds for reengagement.

10. The procedure for making appointment of a regular lecturer is different than the procedure for appointment of Guest Lecturer. In case of a regular appointment the Visitor of the University nominates two experts in the selection committee and that a wider advertisement is made inviting applications for appointment. In *Secretary, State of Karnataka v. Uma Devi and others*, JT 2006 (4) SC 420, the Supreme Court laid emphasis on the adherence to the rule of equality in public employment. The directions of the Court to continue the employees appointed for a specific term violate the rights of other eligible and qualified candidates under Articles 14 and 16 of the Constitution of India.

11. The petitioner is not holding any post to claim a right to continue to be engaged for a period of three years or beyond such period.

12. The writ petition is dismissed.