

(2002) 08 BOM CK 0021

In the Bombay High Court

Case No : Writ Petition No's. 1158 and 1482 of 1988

Kisan Ananda Varade (Dr.)

APPELLANT

Vs

Punjabrao Krishi Vidyapeeth and Others

RESPONDENT

Date of Decision : 27-08-2002

Acts Referred:

Citation : (2003) 1 ALLMR 1123 : (2003) 2 BomCR 243 : (2003) 1 MhLj 187

Hon'ble Judges : V.M. Kanade, J; R.K. Batta, J

Bench : Division Bench

Advocate : A.M. Gordey, for the Appellant; B.P. Jaiswal, for the Respondent

Final Decision : Dismissed

Judgement

R.K. Batta, J.—The issues involved in both these petitions are same and as such they were heard together and are proposed to be disposed of by a common judgment.

2. The petitioners were working with the respondent No. 1 in the cadre of Associate Professor/Reader. The petitioner Arjun Mahajan was appointed as Agricultural Supervisor from 14th October 1959 and the petitioner Dr Kisan Varade was appointed as Agricultural Supervisor with effect from 20th September 1960. The petitioner Arjun Mahajan was promoted to the post of Agricultural Officer vide order dated 7th March 1964 and the petitioner Dr Kisan Varade was promoted to the post of Agricultural Officer with effect from 9-9-1963. They were both promoted to the post of Lecturer in Agronomy in the Agricultural College, Akola. The petitioner Arjun Mahajan was promoted on 25th August 1966 and the petitioner Dr Kisan Varade was promoted with effect from 4-7-1967. The Maharashtra Krishi Vidyapeeth was formed with effect from 1st June 1968. Subsequently, Punjabrao Krishi Vidyapeeth was formed on 20th October 1969 and the services of the petitioners came to be allocated to respondent No. 1 in terms of Section 53 of the Punjabrao Krishi Vidyapeeth Act. The services of the petitioners came to be absorbed and regularised by

Punjabrao Krishi Vidyapeeth with effect from 20th October 1969. The post of Lecturer was re-designated as Assistant Professor. The petitioners claimed that subjectwise seniority list of Assistant Professors as on 31st March 1976 was prepared vide order dated 2-12-1985. The petitioners further claim that in the said seniority list, they were shown as senior to all respondents. By order dated 3rd November 1972 the respondent No. 1 decided to grant revised pay-scale and revised designation to the teachers with effect from 1st April 1970. The criteria for granting revised pay-scale and designation is at Annexure-I which was replaced by revised Annexure dated 29th January 1973. By order dated 10th May 1973, the respondent No. 1 granted revised and improved designation as also pay-scale to teachers mentioned in Schedule-I of the said order. The petitioners as also respondents were granted improved designation of Reader/ Associate Professor which posts were merged together. Thereafter, the respondent No. 1 published provisional seniority list of the Associate Professors under Notification dated 27-1-1987 and in the said provisional seniority list, the respondents who were junior to the petitioners in the cadre of Associate Professor, were shown senior to the petitioners. The petitioners made representation against the aforesaid provisional seniority list to respondent No. 1. By communication dated 1-6-1987, the respondent No. 1 University negated the claim of the petitioner on the ground that grade of Reader is different grade having higher scale of pay and different qualification. Subsequently, vide notification dated 2-6-1987 the respondent No. 1 published final subjectwise seniority list as on 31-3-1986 of the academic staff members in the cadre of Reader/ Associate Professor. In the said seniority list, the petitioners have been placed below the respondents. The said seniority list is under challenge in these petitions. Petitioners seek quashing and setting aside of the said seniority list of Reader/ Associate Professors in the subject of Agronomy which was published under Notification dated 2-6-1987 as also the provisional list in the cadre of Reader and Associate Professor as published under Notification dated 27th January 1987. The petitioners also seek direction to respondent No. 1 to grant seniority to them above the respondents in the cadre of Reader/Associate Professor including promotion to the higher post of Professor. The petitioner Arjun Mahajan has also sought further direction to respondent No. 1 to grant improved and revised pay-scale of Reader/Associate Professor with effect from 1-1-1973 or in any case with effect from 1st November 1976. It may be mentioned here that the petitioner Dr Kisan Varade retired from the post of Associate Professor with effect from 30th June 1995. The petitioner Arjun Mahajan also retired from service, but his date of retirement has not been furnished.

3. The respondent No. 1 in its Return has stated that the scale of Reader was to be granted only to those persons who fulfilled the qualification subject to availability of post and in order of subjectwise seniority. According to respondent No. 1, the said qualifications which are required to be fulfilled are prescribed in Regulation EC/6. The stand of the respondent No. 1 further is that as per the said eligibility criteria, five years of experience after post-graduation is necessary

and considering the eligibility condition, selection grade of Reader and improved pay-scale has been given to the petitioners as also the respondents from the respective date of their entitlement. According to the respondent No. 1, petitioner Dr Kisan Varade entered in service in the cadre of Assistant Professor on 4-7-1967 and he had done his post-graduation in 1967 and thus, he fulfils the requisite experience of five years after post-graduation only on 30-6-1972 on account of which he was placed in the selection grade of Reader with effect from 1-7-1972 with improved scale of Rs. 700-1250/- under order dated 10-5-1973 (Annexure V). In respect of petitioner Arjun Mahajan, it is urged that he did his post-graduation in 1971 and completed five years experience thereafter in 1976 and as such, he was qualified for the scale of selection grade Reader only in the year 1976 and depending upon the availability of vacancy, he was placed in the selection grade on 29-12-1977. According to respondent No. 1, other respondents were eligible prior to the petitioners and as such, they were given the selection grade in the post of Reader/ Associate Professor earlier to the petitioners from the date they were eligible.

4. We have heard learned Advocates appearing on behalf of the parties. Mr A. M. Gordey, learned Senior Advocate appearing on behalf of the petitioners has mainly and substantially urged before us that on the basis of seniority in the cadre of Associate Professor, the inter-se parental seniority of the incumbents in the lower cadre is required to be maintained in the upgraded cadre of the Reader-cum- Associate Professor. He has pointed out that the petitioners were senior to the respondents in the post of Assistant Professor and as such, even when they were upgraded to the selection grade in the post of Reader/Associate Professor, the same seniority is required to be maintained.

5. There is obviously no merit in this submission of learned Advocate for the petitioners in view of the eligibility criteria which is required to be fulfilled by the incumbent for grant of scale of Reader/ Associate Professor. As per Schedule to Annexure IV in Writ Petition No. 1482 of 88 and Schedule to Annexure V in Writ Petition No. 1158 of 88 minimum qualifications essential to hold the post and improved scale for the post of Reader/Associate Professor are those prescribed in Regulation EC/6. Therefore, we have to see the required qualifications for the said purpose under Regulation EC/6. Clause 3 of the Regulation EC/6 provides that only those persons shall be eligible for appointment to various posts of academic staff members mentioned in column 2 of the Annexure to the Regulation who have at least the educational and other qualifications as mentioned in column 3 of the said Annexure against the concerned post. For the post of Professor/Associate Professor (except in the subject of Agricultural Engineering), the qualification and experience required is as under:--

"A) Bachelor's degree in Agriculture of this University or a degree of any other University/Institute recognised as such by this University as equivalent thereto with at least 45% marks in the aggregate or with the Course Credit and Internal Evaluation System of Education (Semester or Trimester);

AND

B) Master's degree in Agriculture (in the subject concerned) of this University or a degree of any other University/ Institute recognised as such by this University as equivalent thereto with papers only or with papers and research and with atleast 45% marks in the aggregate or with research only or with the Course Credit and Internal Evaluation System of Education (Semester or Trimester);

AND

C) Experience for a period of atleast 5 years" in the field of teaching, after post-graduation, and/or research and/or administration and/or extension."

6. The experience required is for a period of at least five years in the field of teaching and/or research and/or administration and/or extension after post-graduation. The petitioner Dr Kisan Varade had done his post-graduation in the year 1967 and petitioner Arjun Mahajan had done his post-graduation in 1971. Therefore, their entitlement to the selection grade in the post of Reader/ Associate Professor could only be after completion of five years which was in the year in 1972 in case of petitioner Dr Kisan Varade and 1976 in case of petitioner Arjun Mahajan. Dr Kisan Varade was put in selection grade of Reader/ Associate Professor with effect from 1-7-1972 in the improved scale of Rs. 700-1250/-. However, no post was available in 1976 and the post was available only in 1977 and as such, petitioner Arjun Mahajan was given selection grade with effect from 29-12-1977. Accordingly, both of them were given selection grade of Reader/ Associate Professor from the dates they were entitled to it. Respondents had, however, become entitled to selection grade earlier to the petitioners since they had completed post-graduation earlier and they had completed five years for the purpose of grant of selection grade much prior to the petitioners. Therefore, we do not find any merit whatsoever in the contention of the petitioners that their parental seniority in the cadre of Assistant Professor was required to be maintained in the upgraded cadre of Reader/Associate Professor and they ought to have been placed above the respondents in the final seniority list of Reader-cum-Associate Professor, in this view of the matter, we do not find any merit in these petitions and the petitions are hereby rejected. Rule is accordingly discharged with no order as to costs.