

(2011) 08 DEL CK 0292
In the Delhi High Court
Case No : Writ Petition (C) 3918 of 2000

Madhup Nath Jha

APPELLANT

Vs

Rashtriya Sanskrit Sansthan and Others

RESPONDENT

Date of Decision : 04-08-2011

Acts Referred:

Citation : (2011) 08 DEL CK 0292

Hon'ble Judges : Dr. S. Muralidhar, J

Bench : Single Bench

Advocate : Rekha Palli, Punam Singh and Amrita Prakash, for the Appellant;
Ravinder Dayal, for R-5, for the Respondent

Final Decision : Disposed Off

Judgement

S. Muralidhar, J.—The Petitioner challenges an order dated 10May 2000 issued by the Rashtriya Sanskrit Sansthan, Respondent No. 1, reverting him from the post of Lecturer in History to the post of Post Graduate Teacher ("PGT") (History) in Respondent No. 3 Rani Padmavati Tara Yogatantra Mahavidyalaya. The Petitioner also challenges the rd consequential order dated 3July, 2000 issued by Respondent No. 3 stating that since no direction had been issued by Respondent No. 1, no salary would be paid to the Petitioner in the reverted post.

2. Respondent No. 1 is under the administrative control of the Union of India through the Ministry of Human Resources Development ("HRD Ministry") Respondent No. 2. Respondent No. 3 is an institution in Varanasi in Uttar Pradesh affiliated to W.P. (C) No. 3918 of 2000Page 1 of 5 Respondent No. 1 and is an autonomous body functioning under the administrative and financial control of Respondent No. 1.

3. The Petitioner states that he was appointed as a Trained Graduate Teacher ("TGT") th on 4August, 1992 by the Managing Committee ("MC") of Respondent No. 3 after observing the due formalities. The Petitioner states that at the time of his appointment as a TGT, he had a BA degree. Subsequently he qualified for the

MA degree securing more than 55% marks. According to the Petitioner he was promoted to the post of PGT after passing through various tests and interviews. Although in para "E" of the writ petition the Petitioner has stated that he was promoted to the post of "PGT in the th Department of History as lecturer on 18January 1996", he has subsequently clarified in response to an application filed by the Respondents that this was a typographical error. The Petitioner has clarified that his claim is that he was promoted to the post of th PGT on 18 th January, 1996.

4. It is the Petitioner's case that on 17th November 1998, Respondent No. 1 issued an office order relating to the recognition of Respondent No. 3 and about the grant of financial assistance to institutions recognized by Respondent No. 1. In the said office order the name of the Petitioner finds place at serial number 8 under the caption teaching staff in which he is shown as a lecturer. The Petitioner claims that when an Expert Committee ("EC") constituted by Respondent No. 1 visited Respondent No. 3 th on 14April 1997, it examined the relevant records of appointments of teaching and non-teaching staff. The EC came to the conclusion that there were irregularities and therefore decided to screen, meticulously and closely, performance of the teaching staff. It is claimed by the Petitioner that the EC found that Respondent No. 5 was not qualified for the post of lecturer in history. He claims that the EC found the Petitioner to be suitable for the post of lecturer and made a recommendation in that behalf.

5. The Petitioner states that on 2December, 1998 a letter was issued appointing the th Petitioner as a lecturer in history on probation with effect from 29October 1998 for a th period of two years. A second review committee met on 24September 1999 and reviewed the appointments made to both teaching and non-teaching staff in Respondent No. 3. This committee recommended that Respondent No. 5 be appointed as lecturer in history, that the Petitioner be reverted to the post of PGT, and that one W.P. (C) No. 3918 of 2000 Page 2 of 5 post of PGT in history be created for him. This led to the impugned orders being passed.

6. Aggrieved by the decision of the EC not to recommend his appointment as lecturer, Respondent No. 5 approached the High Court of Allahabad by filing W. P. (C) No. 43882 of 1998. Respondent No. 3 contested this writ petition and filed an affidavit stating that Respondent No. 5 in fact had much less marks in his post graduate degree in comparison to the Petitioner and therefore, was found unsuitable for the post of lecturer in history. However, the said writ petition was subsequently withdrawn and Respondent No. 5 was appointed as lecturer in history. The case of the Petitioner is that his reversion to a non-existent post of PGT was stigmatic and punitive, and in any event violative of the principles of natural justice. Further, the Petitioner's salary has also not been paid by Respondent No. 1.

7. Respondent No. 5 in his reply to the present writ petition has pointed out that he was appointed initially as a lecturer in history on ad hoc basis in Respondent

No. 3th with effect from 4th August 1992. At the time of such appointment he had a postgraduate degree in history. He had passed the B. Ed. examination in 1992. He also had an M. Phil. degree. He had enrolled for a Ph.D. from the Banaras Hindu University and a provisional Ph.D. degree was awarded to him on 4th December 2000. Respondent No. 5 states that in 1993 the requisite qualifications for being appointed as a lecturer was an MA in 2nd class in the subject concerned, a B. Ed. degree and at least 3 years' teaching experience. He states that by the time the EC was constituted by Respondent No. 1 visited Respondent No. 3 on 14th April 1997 Respondent No. 5 had 8. years and 8 months' teaching experience as lecturer in history. At the time when Respondent No. 5 joined as lecturer in history the Petitioner only had a BA degree and was appointed, therefore, only as a TGT. He did not possess even a B. Ed. degree. It is pointed out that the Petitioner qualified in MA in 1993 with 58.5% marks but was wrongly promoted from TGT to PGT without the approval of a duly constituted expert committee. When the second expert committee visited the college it was realised that the Petitioner was not even qualified to be appointed as a TGT in history. Respondent No. 5 further states that as per the norms of the University Grants Commission ("UGC") he is fully qualified as he had in 1990 itself a master's degree in History with W.P. (C) No. 3918 of 2000 Page 3 of 5 52.5%. This was above the requirement of 50% as mentioned in the UGC Guidelines. On the other hand, the Petitioner did not fulfill the UGC norms.

8. The stand of Respondent No. 5 has been fully supported by Respondent Nos. 1 to 4. It is contended that apart from the fact that the Petitioner was not qualified to be appointed to the post of even a TGT as he did not have a B. Ed. degree, his promotion to the post of PGT was illegal. The inclusion of the Petitioner's name in the circular dated 17th November, 1998 showing him to be a lecturer in history is stated to be a 2nd mistake. Further, the letter appointing him as lecturer dated 2nd December 1998 made it clear that he was to be on probation for a period of two years. Consequently the Petitioner could not claim any right to hold the post.

9. The stand of Respondent Nos. 1 to 4 is that Respondent No. 3 has to abide by the norms laid down by Respondent No. 1. This includes strict application of the UGC norms in the matter of recruitment of teaching staff. It is reiterated that the Petitioner was not qualified to hold the post of PGT in history as he did not possess the B. Ed. degree.

10. The principal issue to be decided in the present case is whether the reversion of the Petitioner from the post of lecturer in history to a PGT in history is justified in law? The comparative merits of the Petitioner and Respondent No. 5 for being appointed as lecturers in history is an incidental issue.

11. The Petitioner states that he has a postgraduate degree in history with 58.5% marks. It is not in dispute that for appointment as a lecturer in history a candidate should possess a second class postgraduate degree, i.e., MA, a B. Ed. degree and at least three years' teaching experience. It is further not in dispute

that the UGC norms required the candidate to have a masters degree in the relevant subject with at least 55% marks or its equivalent grade. This according to Respondent No. 5 is relaxable up to 50%. However, as further clarified by the Respondents 1 to 4 the norms stipulated for the 95% grant-in-aid required the candidate to have a B. Ed and a Ph.D. degree or to have qualified the NET. Respondent No. 5 had a Ph.D at the time of his appointment as ad hoc lecturer. However the Petitioner did not possess a B. Ed. on the date that he was promoted as a PGT in the Department of History. He was not a Ph.D at the time W.P. (C) No. 3918 of 2000 Page 4 of 5 of his appointment as Lecturer. The Petitioner has not been able to deny that Respondent No. 5 possessed a higher qualification. Apart from an M.A. and a B. Ed. degree, he also had an M. Phil. and 4 years and 8 months of teaching experience. In the circumstances, the stand taken by Respondent Nos. 1 to 4 about the Petitioner having been promoted as a PGT in History by mistake and further not being qualified to be appointed as a lecturer in history appears to be justified. In terms of seniority Respondent No. 5 was appointed as an ad hoc lecturer in 1992 itself and on a regular basis with effect from 1993, whereas the Petitioner was only appointed as a TGT in 1992 for which again he was not qualified as he did not possess a B. Ed. degree. In the circumstances the decision of Respondent No. 3 to not continue the Petitioner in the post of lecturer history cannot be held to be illegal.

12. The stand taken in the counter affidavit filed on 17th April 2001 by Respondent Nos. 1 to 4 is that since the Petitioner was not qualified he was not fit to be retained. However, the impugned order does revert the Petitioner to the post of PGT in history. During the course of submissions it was stated by learned Counsel for the Petitioner th that the Petitioner has been paid the salary as TGT from 12January 2007 onwards. A th copy of a letter dated 12 th January 2007 addressed by the Principal of Respondent No. 3 to the Petitioner shows that the Petitioner was, pursuant to a letter dated 18 th December 2006 of Respondent No. 1 and the decision dated 16December 2006 of the Managing Committee of Respondent No. 3, appointed as PGT History on temporary basis for a period of two years. However, the said letter asks the Petitioner to withdraw the present petition. Considering that the impugned order already reverted th the Petitioner to the post of PGT History with effect from 10July 2000, the further decision ten years later to appoint him to the said post on temporary basis appears to be intriguing. The Petitioner ought to be paid the salary as PGT History for the entire period he has worked on the said post. Accordingly it is directed that the Petitioner should within a period of eight weeks be paid by the Respondents his salary as PGT History for the entire period that he has served on the said post after adjusting the amount already paid to him. The writ petition is disposed of with the above directions.