
(2003) 12 AHC CK 0041
In the Allahabad High Court
Case No : C.M.W.P. No. 55155 of 2003

Mrs. Chitra Dar

APPELLANT

Vs

Allahabad University and Others

RESPONDENT

Date of Decision : 16-12-2003

Acts Referred:

Uttar Pradesh State Universities Act, 1973 — Section 31(8)

Citation : (2004) 1 AWC 685 : (2004) 1 UPLBEC 709

Hon'ble Judges : Umeshwar Pandey, J; M. Katju, J

Bench : Division Bench

Advocate : Ajit Kumar, for the Appellant; Ram Gopal Tripathi, Neeraj Tripathi and P.S. Baghel, for the Respondent

Judgement

M. Katju and Umeshwar Pandey, JJ.—Heard Sri Ajit Kumar, learned counsel for the petitioner, Sri Neeraj Tripathi, for the Chancellor and Sri P. S. Baghel for the Allahabad University, Allahabad.

2. The petitioner is a Reader in Physics in Allahabad University, Allahabad and she has prayed for a mandamus directing the University to promote her to the post of Professor in Physics from 1.7.2000. The petitioner has also prayed for a writ of certiorari to quash the impugned order of the Chancellor dated 21.5.2003 (vide Annexure-1 to the writ petition).

3. The petitioner was initially appointed as lecturer in Physics in Allahabad University in 1982 and was later selected and appointed as Reader in 1990. It is alleged in para 5 of the petition that the petitioner became eligible for personal promotion as Professor on and after 30.6.2000 after completion of 10 years excellent service as Reader in view of Statute 11.12B of the First Statutes of the University.

4. It appears that the petitioner appeared for an interview for selection to the post of Professor on 10.7.2000 but she was not selected by the Selection Committee constituted u/s 31 (4) of the U. P. State Universities Act. The

Selection Committee did not recommend the petitioner's name on the ground that she had not produced any worthwhile research work in any reputed journal, and had not guided any research student for Ph.D. degree, and her performance in the interview was unsatisfactory.

5. However, the Executive Council disagreed with the recommendation of the Selection Committee on 13.10.2001, since it was of the view that the petitioner deserved to be promoted as Professor in view of her teaching and research work, vide Annexure-5. Details are given in Annexure-6. Hence the matter was referred to the Chancellor u/s 31 (8) (a) of the Act, vide Annexure-6.

6. The petitioner's representations to the Chancellor are Annexures-7 and 8. The petitioner has alleged that she has been discriminated against. The comparative chart which is Annexure-14 to the petition shows that she has 25 published papers to her credit, which is the highest in the chart. Her self assessment chart is Annexure-10. She has been for many years Principal Investigator of a project in Nuclear Science Centre, New Delhi and has alleged that her work was excellent vide Annexure-11. She has participated in many national and international conferences, seminars etc. vide para 15 (h) to the petition. Many persons -were promoted as Professors who did lesser research work and had lesser publications, vide para 16 to the petition.

7. Instead of deciding the dispute the Chancellor by the impugned order dated 21.5.2003 has remanded the matter to the Selection Committee (vide Annexure-1 to the petition).

8. Section 31 (8) (a) of the Act reads as follows :

"In the case of appointment of a teacher of the University, if the Executive Council does not agree with the recommendation made by the Selection Committee, the Executive Council shall refer the matter to the Chancellor along with the reasons of such disagreement, and his decision shall be final :

Provided that if the Executive Council does not take a decision on the recommendations of the Selection Committee, within a period of four months from the date of the meeting of such Committee, then also the matter shall stand referred to the Chancellor, and his decision shall be final."

A perusal of the above provision shows that when the Executive Council disagrees with the recommendation of the Selection Committee the matter has to be referred to the Chancellor and the decision of the Chancellor shall be final. In our opinion, this means that the Chancellor has to decide the dispute, and he cannot abdicate his function by remanding the matter to the Selection Committee or to the Executive Council or Vice-Chancellor. If the latter course of action is permitted, the controversy may go on endlessly by repeated remand orders of the Chancellor.

9. The Chancellor may either agree with the Selection Committee's recommendation or he may agree with the view of the Executive Council, but he

has to take a decision one way or the other. He cannot avoid taking a decision in the matter as that would violate the mandate of Section 31 (8) (a) of the Act.

10. No doubt the Chancellor while deciding the controversy has to take the opinion of experts in the subject because obviously the Chancellor cannot possibly be an expert and have knowledge of every subject.

11. In the present case, we are concerned with the subject of Physics, and the present Chancellor is renowned as a former Professor of Hindi (in Calcutta University). Obviously, he himself cannot decide on the merits whether the petitioner, who is a teacher of Physics in the Allahabad University, deserves to be promoted as Professor. Hence the Chancellor should take the opinion of renowned Physicists in the country (who will hear the petitioner personally) and on the basis of such opinion, he should decide the matter one way or the other and give a final decision whether the petitioner deserves to be promoted as Professor within a month from communication of this order to the Chancellor. We are fixing this time period for the Chancellor's decision as we are informed by learned counsel for the petitioner that the petitioner is retiring on 10.2.2004. Hence, if she deserves to be promoted as Professor, she should certainly not be denied her claim, as by such promotion, she will get the status and pay of Professor with arrears from 1.7.2000 along with the pension of Professor. Petition is disposed of accordingly. The impugned order dated 21.5.2003 is quashed. Let a copy of this judgment be given today to the parties on payment of usual charges.