
(2015) 03 RAJ CK 0102
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4179/2013

Narendra Kumar Jain and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 24-03-2015

Acts Referred:

Citation : (2015) 3 SCT 490

Hon'ble Judges : Nirmaljit Kaur, J.

Bench : Single Bench

Advocate : Nupur Bhati and Kailash Jangid, for the Appellant; B.D. Sharma, Advocates for the Respondent

Final Decision : Allowed

Judgement

Nirmaljit Kaur, J.—All the petitioners are serving in the Maharana Pratap University of Agriculture and Technology, Udaipur on the post of Associate Professor in various subjects. The relief sought by the petitioners is for promotion to the post of Professor under the Career Advancement Scheme by taking into consideration the aggregate of marks obtain in Expert Assessment and not just the interview marks alone i.e. they should be promoted if they are, otherwise, eligible and have secured more than 50% marks in the Expert Assessment carrying 100 marks, which includes interview marks.

2. The petitioners who are serving on the post of Associate Professors are stated to be entitled to the next promotion as per the prevailing UGC/ICAR Regulations and the Rules for promotion to the post of Professor in accordance with Career Advancement Scheme (hereinafter referred to as, "the CAS"). The University Grants Commission (hereinafter referred to as, "the UGC") framed its Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education-2010, (hereinafter referred to as, "the Regulations, 2010"), which was published in the Gazette of India. In these Regulations, the UGC in Regulation 6.4.0 stated the stages of promotion of incumbent and newly

appointed Assistant Professors/Associate Professors/Professors under CAS. The Regulation 6.4.8 is relevant for the purpose of promotion to the post of Professor. As per the said Regulation, "Associate Professor completing three years of service in Stage-4 and possessing a Ph.D. degree in the relevant discipline shall be eligible to be appointed and designated as Professor and be placed in the next higher Grade (Stage-5), subject to (a) satisfying the required credit points as per API based PBAS methodology provided in Table I-III of Appendix IV stipulated in these Regulations, and (b) an assessment by a duly constituted selection committee as suggested for the direct recruitment of Professor. Provided that, no teacher, other than those with a Ph.D., shall be promoted or appointed as Professor." As per Regulation 6.3.2, the candidates who do not secure 50% marks in the Expert Assessment will have to undergo re-assessment after one year. The respondents took a decision to adopt the Regulations, 2010 for the purpose of CAS and also to finalize and approve the guidance score card. While adopting the Regulations, 2010, certain modifications were made by the State Government in which Clause-4 said that Career Advancement Scheme on or after 31.12.2008 shall be strictly as per the revised Regulation, 2010 as stated in para 1.3. of the UGC Regulations dated 30.6.2010. The petitioners were facing stagnation and therefore, made representations through their association to the University for conducting a process for promotion under the CAS as no promotion had taken place since 2001 when 42 promotions were given to the teaching staff as Professors. Out of which, 60% Professors had already retired by the end of 2010. It was also stated in the representation that as per the ICAR and UGC Guidelines, process for promotion should be conducted every year on regular basis. In pursuance of such representations, the University recommended for conducting of personal promotion of teachers under the CAS vide letter dated 4.5.2011.

3. Accordingly, applications were invited on 14.10.2011 for promotion from the post of Associate Professor to the post of Professor under the CAS. As per the procedure laid down in Regulation, 2010, the petitioners being fully eligible applied against the same. As per the Regulation, 2010, they filled their appraisal forms. Thereafter, the respondents issued call letters to the petitioners to appear for interview for personal promotion under CAS. They duly appeared before the Selection Committee but were shocked to see the result declared on 11.1.2013, whereby, they were not given promotion on the post of Professor under the ongoing process on the ground that they had not secured 50% marks in interview, whereas, all the petitioners have got above 50% marks out of 100 marks in the score card and less than 10 marks in the interview carrying 20 marks.

4. Learned counsel for the petitioner while praying for promotion along with other candidates on the post of Professor after taking into consideration the aggregate of the marks under the various heads given under the Expert Assessment instead of considering the interview marks alone, argued that the norms of promotion to the post of Professor were well defined in the Regulations

of the UGC, which have been admitted by the University and the State Government for all purposes including career advancement but the connotation drawn by the respondents that all Assistants Professors are required to obtain 50% marks in the interview alone for promotion is contrary to the basic Regulation, 2010 and its Appendix-III.

5. It was further contended that various writ petitions were filed in the High Court at Rajasthan challenging the vires of the University Grants Commission (Minimum qualifications required for the appointment and Career Advancement of Teachers in Universities and Institutions affiliated to it) (3rd Amendment) Regulations, 2009 as the UGC has put a rider that only those candidates who have been awarded Ph.D. degree in compliance of the University Grants Commission shall be exempted from the requirement of the minimum eligibility condition of NET/SLET for recruitment and appointment of Assistant Professor or equivalent cadres in Universities/Colleges/Institutions. The learned Division Bench of the High Court while dismissing the petitions uphold the vires of the University Grants Commission (Minimum Qualifications required for the appointment and Career Advancement of Teachers in Universities and Institutions affiliated to it) (3rd Amendment) Regulations, 2009 and also held that the University could not pass resolutions granting exemptions in contravention of the Regulations framed by it and that once the UGC has framed regulations, they are binding upon it and no departure can be made from them.

6. Reply has been filed on behalf of the respondents No. 2 and 3, Maharana Pratap University of Agriculture and Technology and its Registrar, stating that as per Regulation 6.3.2, 6.3.7 and 6.3.11 of the Regulations, 2010, it is necessary to obtain minimum marks as per Performance Based Appraisal System (PBAS proforma) and also in the expert assessment before the Selection Committee. An interview is based on the expert assessment and that a candidate must secure more than 50% marks on the basis of score card out of 80 marks and also obtain more than 50% marks out of the score card of 20 marks in the interview. It was further submitted that if the argument of learned counsel for the petitioners is accepted, then only Academic Performance Indicators marks is required to be considered and if a candidate gets more than 50% marks in API scores, he need not to appear in the interview, which is not logical. Reliance is placed on the Regulation 6.3.2 of the Regulations, 2010 on minimum qualifications, which reads thus:--

"6.3.2 Candidates who do not fulfill the minimum score requirement under the API Scoring System proposed in the Regulations as per Tables II (a and b) of Appendix III or those who obtain less than 50% in the expert assessment of the selection process will have to be re-assessed only after a minimum period of one year. The date of promotion shall be the date on which he/she has successfully got re-assessed." 7. Learned counsel for the respondent-University has further relied on the Regulations 6.0.1, 6.0.2, 6.0.6 of the Regulations, 2010 to contend that the petitioners must obtain more than 50% marks in the interview i.e. at

least 10 marks out of 20 marks in the interview alone. Further, as per Annexure-R/1, a candidate must obtain 40 out of 80 in PBAS and 10 out of 20 in interview to qualify and that as per the Regulation 6.0.2, the University can adopt their own template proforma and can also devise their own self-assessment cum performance appraisal forms for teachers.

8. Learned counsel for the parties were heard at length and the UGC Regulations and the various resolutions were also gone into.

9. There is no dispute with the marks obtained by the petitioners in the API. All the petitioners have got more than 50% marks. The only dispute is with respect to the marks obtained in the Expert Assessment. Thus, the question that requires to be decided is as to whether the criteria of Expert Assessment comprises of interview alone or other heads as well?

10. In order to understand the controversy, we need to refer to the Regulation 6.4.8 and 6.3.2 of the Regulations, 2010, which read:--

"6.4.8. Associate Professor completing three years of service in stage 4 and possessing a Ph.D. degree in the relevant discipline shall be eligible to be appointed and designated as Professor and be placed in the next higher Grade (stage-5), subject to (a) satisfying the required credit points as per API based PBAS methodology provided in Table I-III of Appendix IV stipulated in these Regulations, and (b) an assessment by a duly constituted selection committee as suggested for the direct recruitment of Professor. Provided that no teacher, other than those with a Ph.D., shall be promoted or appointed as Professor.

6.3.2 Candidates who do not fulfill the minimum score requirement under the API Scoring System proposed in the Regulations as per Tables II (a and b) of Appendix III or those who obtain less than 50% in the expert assessment of the selection process will have to be reassessed only after a minimum period of one year. The date of promotion shall be the date on which he/she has successfully got re-assessed."

11. As per Appendix III Table II(A), the relevant portion of the Minimum Academic Performance Indicators as provided in Appendix-III Table-I to be applied for the Promotion of Teachers under CAS in University Departments, and Weightages for Expert Assessment, from the post of Assistant Professor (Stage 4) to Professor/equivalent cadres (Stage 5), is as under:--

12. The Table of UGC Regulations Appendix as mentioned above provides for percentage distribution of weightage points in the Expert Assessment (Total weightage = 100). Minimum required for promotion is 50 in its column No. V, it also provides that since the appointments were from stage 3 to 4 and stage 4 to stage 5 there had to be 80% marks for contribution to Research; Assessment of Domain Knowledge; and Teaching Practices, with 20% marks for interview performance.

13. The criteria as per the Guidance for Assessment/Direct Recruitment as

Professor/Equivalent for the post of Professor or its equivalent as provided by the said Regulation is:--

14. Whereas, the minimum qualifying marks for appointment mentioned in the same is:

"Minimum for appointment: The minimum marks qualifying for appointment will be as under:--

"a) UR : 50 Marks

b) SC/ST: 45 Marks"

15. From the above, it is evident that there is no mention of the requirement of 50% marks in the interview. It is further evident that there are three heads under the Expert Assessments, namely, (i) contribution to research; (ii) assessment of domain knowledge and teaching practices; and (iii) interview performance.

16. Thereafter, the result of the petitioner No. 1 was declared as under:--

17. A perusal of the above shows that the petitioner No. 1 has 57.16 marks out of 80 marks and 8.00 out of 20 marks in the interview. Similarly, other petitioners have also got more than 50% in the aggregate of various heads as mentioned above but less than 10 marks in the interview. However, if the aggregate of 100 marks is taken, all the petitioners got more than 50% marks.

18. Admittedly, all the petitioners have got more than 50% marks in the API Score system. It is also admitted that the candidates require 50% marks under the Expert Assessment system. Question is whether Expert Assessment means interview alone.

19. As per the Appendix-III Table II(A), reproduced above, the distribution of weightage marks in the Expert Assessment for promotion from the post of Associate Professor (Stage 4) to Professor/equivalent cadres (Stage 5) under the Expert Assessment system for the sake of repetition is reproduced as under:--

20. From the above Table, it is evident that 50% marks are towards contribution to research, 30% towards assessment of domain knowledge and teaching practices and 20% towards interview performance for the purpose of Expert Assessment. None of the regulations framed by the UGC and as adopted by the University including the Regulations 6.3.0, 6.0.1, 6.0.7, 6.0.3, 6.3.2 or 6.4.8 provide for interview to be the only criteria under the heading of Expert Assessment System.

21. For the sake of simplicity, the only conclusion that can be drawn from the above is:

22. Thus. Expert Assessment does not mean interview alone. Research, publication of books are subject to assessment by Selection Committee, which is as stated by the UGC in its reply as discussed in the later part of the judgment.

Hence, in the facts of the present case, "Expert Assessment" does not mean "interview alone".

23. The argument of the learned counsel for the respondents that from the Annexure-R/1, which is proforma for marks for Assessment of Associate Professor for promotion as Professor under CAS, the minimum eligibility marks in PBAS was 40 out of 80 and 10 out of 20 in interview alone and were required to be obtained separately for promotion to the post of Professor, has no merit. The same appears to have been worked out on totally wrong interpretation of the Regulations, 2010, reproduced above, which is proved from the following:--

(i) Regulation 6.3.2 talks of 50% marks in the "Expert assessment". It does not talk about interview alone.

(ii) Regulation 6.0.1 of the Appendix III Table II (B) relates to promotion to the post of Professor which also talks of Expert Assessment System and it again includes three heads i.e. contribution to research; assessment of domain knowledge and teaching practices; and interview performance. It does not mention interview alone.

(iii) The argument that Universities may adopt their own template proforma or may devise their own self-assessment cum performance appraisal forms for teachers, too, does not help. As per the Regulation 6.0.2 "the Universities may adopt the template proforma or may devise their own self-assessment cum performance appraisal forms for teachers in strict adherence to the API criteria based PBAS prescribed in these Regulations." Under no circumstances, it states that the marks towards contribution to research and assessment of domain knowledge and teaching practice can be separated from the interview marks under the head of Expert Assessment.

(iv) No doubt, as per the proforma of marks for assessment of Associate Professor for promotion as Professor in CAS placed on record as Annexure-R/1 shows that minimum eligibility required is 50% marks in PBAS (40/80) as well as interview (10/20) separately, but there is no such mention of the same in the proforma of marks-sheet for Assessment/Direct Recruitment of Professor, supplied to the petitioner through the RTI. Thus, the column was added subsequently by the University while making the assessment, which is not in strict adherence to the API criteria based PBAS prescribed in these Regulations and nor adopted by the University by any resolution. The same is an outcome of wrong and erroneous interpretation.

(v) Even from the reply of the UGC, it is evident that the assessment of the research publications including books is to be done by three eminent experts and only, in case, the recommendation is positive by three experts that a candidate is entitled for interview, and the experts in the interview are different from those who had assessed and evaluated the research publications. Although the same talks of the promotion under CAS from Reader to Professor but there is no distinction provided in the procedure for evaluating a candidate for "Expert

Assessment" qua the promotion from Associate Professor to Professor. As per the Regulations of the UGC, the criteria and terms to be adhered are as under:--

? "That self-appraisal report for the period including five years before the date of eligibility be submitted;

? That minimum of five research publications out of which two could be the books be submitted for evaluation/assessment before the interviews;

? That the assessment of the research publications, including books, be done by three eminent experts in the subject which shall be different than those called for interview to be conducted later on;

? That all the recommendations be positive from the three experts. In case, the recommendation of one out of the three is negative, the research publications be sent to the fourth expert for evaluation and assessment in all, there has to be a minimum of three positive recommendations out of the total of four experts, in case the fourth expert has participated in the exercise due to one negative report out of the initially three experts involved in evaluation;

? That there be a separate column in the evaluation report of the expert saying whether the research publications and books are recommended or not recommended;

? That the University be permitted to hold the interview for promotion under CAS only for those candidates who have cleared by obtaining minimum of three positive recommendations from the experts on their research publications/books.

? That then after the interview be conducted inviting three experts of the concerned subject making sure that these experts be different than those who had assessed and evaluated the research publications."

24. From the reply of the UGC as above, it is evident that Expert Committee also evaluates and assesses the research publications and the books published by the candidates. Thus, while framing the said Regulations, the UGC did not contemplate separating the said Expert Assessment of the research publications and the books from the Expert Assessment in the interview.

25. Reliance was placed by the learned counsel for the respondent-University on the various judgments rendered by the Apex Court. In the case of *Irshan Rashid Pathan and 10 Ors. v. State of Rajasthan and Ors.*, reported in 2012(5) WLC (Raj.) 135ENDLAWFINDER, the Apex Court held that qualifications higher than prescribed under Rules can be advertised but lower than that cannot be. Reliance was also placed on the judgment of the Apex Court in the case of *Majeet Singh, UDC and others Vs. Employees' State Insurance Corpn. and another*, to state that even in the absence of prescribed minimum qualifying marks, 40% marks in interview were held reasonable. It is further contended that Examining/Expert Body is competent to prescribe cut off marks on the basis of post in question as per the judgment rendered by the Apex Court in the case of *Banking Service*

Recruitment Board, Madras Vs. V. Ramalingam and Others, Further, the minimum qualifying marks for written and oral examination can be fixed in order to get best available talent and the interview is the best mode of assessing the suitability of a candidate for particular position as per the judgment of the Apex Court rendered in the case of K.H. Siraj Vs. High Court of Kerala and Others, . Further, as per the judgment rendered by Rajasthan High Court in the case of Rajasthan High Court Non-Gazetted Ministerial Staff Association Vs. The Registrar General, Rajasthan High Court of Judicature for Rajasthan and Others, , employer is the best judge to prescribe eligibility criteria.

26. There is no dispute about the proposition of law laid down in the judgments referred to by the learned counsel for the respondents. However, the same does not help the respondents in the facts and circumstances of the case. In the present case, the University has adopted the Regulations in its letter and spirit but fell in error while applying Regulation 6.3.2 of the Regulations, 2010. As per the said Regulation, candidates who do not fulfill the minimum score requirement under the API Scoring system provided in the Regulations as per Table-II (AandB) of Appendix-III or who obtain less than 50% in the expert assessment of the selection process will have to be re-assessed only after a minimum period of one year, which shows that for the promotion to the post of Professor, minimum requirement is 50 marks out of 100 marks in the "Expert Assessment System" and it is nowhere prescribed under the Regulations, 2010 that for the promotion of Teachers under CAS, a candidate is required to obtain 50% marks in the interview alone. Further, Table-II (A and B) of the Appendix-III of the Regulations, 2010 specifically prescribes the percentage distribution of weightage point in the expert's assessment (total weightage = 100. Minimum required for promotion is 50). In the aforesaid table, against column-V and row 4 and 5, it is very specifically stated that since the appointments were from Stage-3 to 4 and Stage-4 to 5, there had to be 80% marks for contribution for research and assessment of domain knowledge and teaching practices with 20% marks for interview performance. Further, a bare perusal of the Guidance for Assessment/Director Recruitment as Professor/Equivalent again prescribes minimum qualifying marks for appointment, and for the unreserved category 50 marks are required for qualifying for appointment. Thus, the UGC regulations, nowhere prescribe to obtain 50% marks in the interview alone and nor such resolution was passed by the University. Thus, the interview marks alone are being considered under the Expert Assessment under a mistaken belief and misinterpretation of the Regulations.

27. It is well settled proposition of law that a plain meaning must be attributed to the statute. Nothing should be added or deleted. It should be read as it is. The Apex Court in the case of Illachi Devi (D) by Lrs. and Others Vs. Jain Society, Protection of Orphans India and Others, , while relying on the various judgments of the Apex Court observed as under:--

"42. In Padmasundara Rao and Others Vs. State of Tamil Nadu and Others, , it

was held:

"The rival pleas regarding rewriting of statute and casus omissus need careful consideration. It is well-settled principle in law that the court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the legislature. The language employed in a statute is the determinative factor of legislative intent. The first and primary rule of construction is that the intention of the legislation must be found in the words used by the legislature itself. The question is not what may be supposed and has been intended but what has been said. "Statutes should be construed, not as theorems of Euclid", Judge Learned Hand said, "but words must be construed with some imagination of the purposes which lie behind them". (Lenigh Valley Coal Co. v. Yensavage, (218 FR 547) The view was reiterated in Union of India and Others Vs. Filip Tiago De Gama of Vedem Vasco De Gama, ." 43. This Court again in Harbhajan Singh Vs. Press Council of India and Others, stated the law thus:

"Clearly, the language of Sub-section (7) of Section 6 abovesaid, is plain and simple. There are two manners of reading the provision. Read positively, it confers a right on a retiring member to seek re-nomination. Read in a negative manner, the provision speaks of a retiring member not being eligible for renomination for more than one term. The spell of ineligibility is cast on "renomination" of a member who is "retiring". The event determinative of eligibility or ineligibility is "renomination", and the person, by reference to whom it is to be read, is "a retiring member". "Retiring member" is to be read in contradistinction with a member/person retired sometime in the past, and so, would be called a retired or former member. "Re" means again, and is freely used as a prefix. It gives colour of "again" to the verb with which it is placed. "Renomination" is an act or process of being nominated again. Any person who had held office of member sometime in the past, if being nominated now, cannot be described as being "again nominated". It is only a member just retiring who can be called ""being again nominated" or ""re-nominated". No other meaning can be assigned except by doing violence to the language employed. The legislature does not waste its words. Ordinary, grammatical and full meaning is to be assigned to the words used while interpreting a provision to honour the rule - the legislature chooses appropriate words to express what it intends, and therefore, must be attributed with such intention as is conveyed by the words employed so long as this does not result in absurdity or anomaly or unless material - intrinsic or external - is available to permit a departure from the rule. Cross in Statutory Interpretation (3rd Edn., 1995) states:

"The governing idea here is that if a statutory provision is intelligible in the context of ordinary language, it ought, without more, to be interpreted in accordance with the meaning an ordinary speaker of the language would ascribe to it as its obvious meaning, unless there is sufficient reason for a different interpretation.... Thus, an "ordinary meaning" or "grammatical meaning" does

not imply that the Judge attributes a meaning to the words of a statute independently of their context or of the purpose of the statute, but rather that he adopts a meaning which is appropriate in relation to the immediately obvious and unresearched context and purpose in and for which they are used. By enabling citizens (and their advisers) to rely on ordinary meanings, unless notice is given to the contrary, the legislature contributes to legal certainty and predictability for citizens and to greater transparency in its own decisions, both of which are important values in a democratic society." 44. Yet again in *Grasim Industries Ltd. v. Collector of Customs, Bombay*, it is stated:

"No words or expressions used in any statute can be said to be redundant or superfluous. In matters of interpretation one should not concentrate too much on one word and pay too little attention to other words. No provision in the statute and no word in any section can be construed in isolation. Every provision and every word must be looked at generally and in the context in which it is used. It is said that every statute is an edict of the legislature. The elementary principle of interpreting any word while considering a statute is to gather the mens or sentential legis of the legislature. Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the court to take upon itself the task of amending or altering the statutory provisions." 45. It is equally well settled that when the Legislature has employed a plain and unambiguous language, the Court is not concerned with the consequences arising therefrom. Recourse to interpretation of statutes may be resorted to only when the meaning of the statute is obscure. The Court is not concerned with the reason as to why the Legislature thought it fit to lay emphasis on one category of suitors than the others. A statute must be read in its entirety for the purpose of finding out the purport and object thereof. The Court, in the event of its coming to the conclusion that a literal meaning is possible to be rendered, would not embark upon the exercise of judicial interpretation thereof and nothing is to be added or taken from a statute unless it is held that the same would lead to an absurdity or manifest injustice. It is well-established that a disabling legislation must be characterized by clarity and precision. In the present instance, the prohibitions laid down by Sections 223 and 236 of the Act are categorical and comprehensive, and leave no scope for creative interpretation."

28. Similarly, in the case of *Dayal Singh and Others Vs. Union of India (UOI) and Others*, , the Apex Court held:--

"36. The appellants, thus, cannot invoke a right by reading the same into a statute although admittedly there exists none.

37. It is well-settled principle of law that the court cannot read anything into the statutory provision which is plain and unambiguous. The court has to find out legislative intent only from the language employed in the statutes. Surmises and conjectures cannot be restricted to for interpretation of statutes. [See *Union of India and Others Vs. Filip Tiago De Gama of Vedem Vasco De Gama*, .

38. This Court in Bhavnagar University Vs. Palitana Sugar Mill Pvt. Ltd. and Others, , has observed:--

"Scope of the legislation on the intention of the legislature cannot be enlarged when the language of the provision is plain and unambiguous. In other words statutory enactments must ordinarily be construed according to its plain meaning and no words shall be added altered or modified unless it is plainly necessary to do so to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute." 29. Coming back to the facts of the present case, the Regulation is clear. It refers to Expert Assessment and not to interview. The Expert Assessment includes three heads and not interview alone. The University could not have come to the conclusion that the Expert Assessment meant interview alone, especially when the Expert Assessment was required for evaluating the books and for research publications. The Golden Rule of Interpretation for statute is that it should be given its natural meaning and literal meaning.

30. The argument of the respondents that there is a purpose behind fixing qualifying marks in viva/interview as laid down by the Apex Court in the case of State of U.P. Vs. Rafiquddin and Others, , dealt with the cases pertaining to fresh appointment/direct recruitment, whereas, the case in hand relates to promotion under the CAS, which has been formulated to give career progression to the employee in order to allow the teachers to move into the higher grade and is, in fact, a promotion in addition to the sanctioned post of Professors, which are normally filled through direct recruitment through All India advertisement. On the other hand, the promotions under CAS are made from the posts of Associate Professor to that of Professor after 8 years of service as Associate Professor. Hence, there does not appear to be stress on the interview alone. The requirement of 50% marks is in the Expert Assessment. Since the assessment of the research publications including books is done by three eminent experts in the subject and the said Experts are different from the ones called for the interview, the question of excluding the assessment of research publication and books while counting the marks towards Expert Assessment does not arise. The petitioners already have number of years" experience to their advantage. The UGC, too, in its reply has nowhere stated that the petitioners required minimum 50% marks in the interview alone. There may have been some doubt that 50% marks were required in interview alone, under the Expert Assessment System, in case, there was no other marks granted under the head of "Expert Assessment". As per the reply of the UGC, the assessment of the research publications including books, is also required to be done by three eminent experts and the candidates are required to obtain minimum of three positive recommendations from the Experts on the assessment of the research publications. This suggest that expert assessment does not mean interview alone. Thus, the interpretation by the University is based on erroneous interpretation of the Regulations and the criteria laid down. Moreover, the said criteria, as per Annexure-R/1, was followed for the first time now in the year 2015 as the present selection process has taken place

for the first time in the year 2011 in pursuance to the UGC Regulations, 2010. Thus, it is not the case of the respondents that they have been following this criteria for the promotion on the basis of CAS earlier as well. Thus, the University fell in error while giving its own interpretation and meaning to the definition of Expert Assessment, which was contrary to the language of the Regulations.

31. In view of the above, the present writ petition is allowed with the following directions:--

"(i) The petitioners shall be considered for promotion, if otherwise found eligible, on the post of Professor on the basis of their 50% marks obtained under the Expert Assessment system by taking the aggregate of all the three heads, namely, contribution to research; assessment of domain knowledge and teaching practices; and interview performance;

(ii) The said promotion will be from the date when others candidates were promoted from the post of Associate Professor to the post of Professor under the CAS in pursuance to the applications invited on 14.10.2011"