

(1997) 09 DEL CK 0077

In the Delhi High Court

Case No : Civil Writ Petition No. 2927 of 1994

S. Bala Bawa

APPELLANT

Vs

University of Delhi

RESPONDENT

Date of Decision : 10-09-1997

Acts Referred:

Citation : (1997) 70 DLT 101 : (1997) 43 DRJ 177

Hon'ble Judges : Arun Kumar, J

Bench : Single Bench

Advocate : Amrita Sanghi, S.K. Kaul and Radha Chawla, for the Appellant;

Judgement

Arun Kumar, J.

(1) The petitioner has challenged the action of the University of Delhi in not appointing her as Principal of the Bharti Mahila College. In response to an advertisement for appointment to the said post the petitioner had applied on 29th October 1992. She had been selected for the said post by the Governing Body of the College. However, her name was not approved by the University and, Therefore, she was not appointed. According to the stand of the University the petitioner is not eligible for the said appointment as she does not possess Masters' Degree in a relevant subject.

(2) I have had the benefit of perusing the judgments given by two of my learned colleagues. In view of the difference in the opinion expressed by the two learned Judges the matter has been referred to me. The relevant Ordinances of the University are quoted hereinafter:- Ordinance XVI. Qualification of University Teachers:- Principal

(I) Good academic record with at least second class (C in the seven point scale Master's degree in a relevant subject from an Indian University or an equivalent degree from a foreign University with Doctor's Degree or equivalent published work and teaching experience of degree classes of not less than 10 years or (ii) Good academic record with at least second class (C in the seven point scale)

Master's Degree in a relevant subject from an Indian University or an equivalent degree from a foreign University with teaching experience of degree classes of not less than 15 years. Ordinance xviii Clause 7 (1) The appointment of the Principal and other members of the teaching staff shall be made after advertisement. (2) The appointment of the Principal shall be made by the Governing Body of the College on the recommendation of a Selection Committee consisting of the Chairman of the Governing Body, two representatives of the University on the Governing Body, one expert nominated by the Academic Council for the purpose and two members of the Governing Body nominated by it, provided that prior to final selection and appointment (a) the Governing Body shall submit to the University a list of persons who have applied for the post of Principal, as also names of persons, who may not have applied but whose names the Governing Body may desire to consider for the post, in a form as prescribed by the University and shall indicate the persons from which, in their opinion, the final selection may be made; (b) the list thus submitted by the Governing Body shall be considered by a Selection Committee constituted for the purpose and consisting of the following: i) Vice-Chancellor ii) Pro-Vice Chancellor; iii) A nominee of the Visitor; iv) Chairman of the Governing Body of the College concerned; and v) Two members of the Executive Council nominated by it, and (c) on the recommendation of the Selection Committee the University shall transmit to Governing Body a list of persons mentioned in the order of preference whom the University would be prepared to recognise as Principal or, if none of the applicants are considered suitable, shall refrain from sending a list, in which case the post shall be re-advertised; Provided that where in the opinion of the vice-Chancellor, emergency action for or where in his opinion, it would be unnecessary to adopt the procedure prescribed in (b) and (c) above, the vice-Chancellor may indicate merely which of the candidates included in the list submitted by the Governing Body under sub-Clause 2(a) of Clause 7 of Ordinance XVIII, will not be acceptable to the University, briefly indicating ground for the decision. In such a case, the Governing Body will be free to appoint any person from any of the candidates against whom no such disapproval has been indicated. The controversy in the present writ petition revolves around the meaning and weightage to be given to the words 'in a relevant subject' in Ordinance XXVI. The words 'in a relevant subject' were introduced by way of an amendment in March 1985. Prior to its amendment the relevant Ordinance prescribing the qualifications of Principal was as under:- "(i) Good academic record with a first or second class Masters' Degree with Doctor's Degree or equivalent published work and teaching experience of degree classes of not less than 10 years; or (ii) Good academic record with a first or high second class Masters' Degree with teaching experience of degree classes of not less than 15 years."

(3) It will be noticed from the above that the only material amendment is the introduction of the words 'in a relevant subject'. According to the University the object of this amendment was to bring the qualification of the Principals at par

with the amended qualifications of the post of Lecturers. It is further the stand of the University that the words "in a relevant subject" mean a subject which is taught in the concerned college. The petitioner admittedly does not have Masters' Degree in any of the subjects taught in the concerned college and, Therefore, she is not eligible for appointment as a Principal in the college. On the other hand the stand of the petitioner is that as per Clause 7 of Ordinance XVIII, a Principal of a College is required to undertake teaching work in the College or in the University, the petitioner thus satisfies the said eligibility condition because her subject is taught in the University if not in the College.

(4) If the interpretation sought to be put on the words "in a relevant subject" by the petitioner is accepted, it will have the effect of rendering the words "in a relevant subject" redundant. In the University normally all the subjects are taught and, Therefore, there would have been no need to introduce the words "in the relevant subject". The introduction of the words in a relevant subject could only be said to relate to the subjects taught in the College concerned. It is an elementary principle of interpretation that meaning has to be assigned to each and every word contained in a Statute or Rule. The legislature or the framers of the Statute/Rules are supposed not to have used any word in vain. The words in a relevant subject have to be interpreted so as to give them a meaning and weight. A relevant subject would, Therefore, mean a subject taught in the College. If these words are interpreted to include subjects taught in the University these words would be rendered otiose as if they were there without any purpose. Keeping in view the fact that the University has in its academic curriculum all the subjects these words would really have no meaning in case the interpretation sought to be put by the petitioner on these words is accepted.

(5) This reasoning is reinforced by the fact that the words were introduced by way of amendment of the existing Ordinances meaning thereby, that there was a purpose behind the amendment and the amendment cannot be rendered redundant by accepting the reasoning advanced on behalf of the petitioner.

(6) In support of her contention the petitioner has mainly relied on clause 7 of Ordinance XVIII where it is stated that a Principal of a College may have to teach in the University. From this it is urged that the petitioner's subjects are available for being taught in the University and since as per Clause 7 a Principal is also required to teach in the University, the petitioner satisfies the eligibility condition. I am afraid I am unable to accept this contention. A Principal is primarily concerned with the College in which she is the Principal. The Principals of the Colleges are mostly busy with the administrative work of the colleges. If they are able to find any time for teaching work, they take a few classes in the College itself. It is rare that a Principal may be called upon to teach in the University.

(7) Admittedly, the College in which the petitioner sought appointment as a Principal does not have the subject which the petitioner had for her Masters' Degree. The learned counsel for the petitioner sought to advance an argument that the petitioner will be able to teach portions of a particular subject available

in the College because she had studied the same in her M.A. class. In order to make good this submission the petitioner cited the case of one Dr. S. Laxmi Devi, who according to the petitioner, teaches only a very small portion of a subject taught in the College and still she was appointed as Principal of the College. The learned counsel appearing for the University distinguished the case of Dr. S. Laxmi Devi. According to him Dr. S. Laxmi Devi is qualified to teach a part of a prescribed subject in the College and is in fact doing so whereas the petitioner is at best stating that she will be able to teach a part of the subject taught in the College without claiming that she has a Masters' Degree in that subject.

(8) In view of these facts a case of discrimination is not made out. Moreover, I am of the view that these are academic issues and the same have to be left to the best judgment and decision of the academicians. A Court should not interfere in the same unless some gross illegality or arbitrariness is shown. It is not disputed that the subjects of the petitioner for her Masters' Degree do not include subjects taught in the concerned College. I am of the view that the decision of the University not approving the appointment of the petitioner as Principal of the Bharti Mahila College cannot be said to be in any way illegal or arbitrary or such as to call for interference by the Court.

(9) There is yet another relevant aspect which cannot be lost sight of. There is no allegation of malafides on the part of anyone in this case. The impugned decision of the University cannot also be said to be so unreasonable or unjustified as to call for interference by this Court. Even if the view of the University in such matters can be said to be a plausible and possible view, it does not call for any interference by the Court. The impugned decision in the present case has been taken in the interest of the concerned College and does not call for any interference.

(10) The learned counsel for the petitioner also raised a question of the power of the University in these matters. It was argued that the recommendation in favor of the petitioner was made by the Governing Body of the College and the Vice-Chancellor of the University does not exercise any appellate powers in such matters and, Therefore, the decision of the Governing Body could not be interfered with by the University. The question of power of the University is answered by Clause 7 to Ordinance xviii quoted herein before. Under the said Clause, unless in the opinion of the Vice-Chancellor emergent action was required or where in his opinion it would be unnecessary to adopt the procedure prescribed in the said Clause, the Vice-Chancellor is empowered in a normal cases to indicate as to which of the candidates included in the list submitted by the Governing Body under sub-Clause (ii)(a) of Clause 7 will not be acceptable to University, briefly indicating the ground for the decision. In such a case Governing Body is free to appoint any person from any of the candidates against whom no such disapproval has been indicated. Thus the over-riding powers of the Vice-Chancellor in the matter of appointment of Principal of a College are clearly contained in Clause 7 of Ordinance XVIII. I find no merit in this argument

advanced by the learned counsel for the petitioner.

(11) The result of the above discussion is that in my considered opinion the writ petition is liable to be dismissed. It is ordered accordingly.