

(2015) 10 DEL CK 0168

In the Delhi High Court

Case No : LPA 727, 728, 729 and 730/2014

SDB Infrastructure Pvt. Ltd. and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 16-10-2015

Acts Referred:

Citation : (2015) 224 DLT 166

Hon'ble Judges : Pradeep Nandrajog and Mukta Gupta, JJ.

Bench : Division Bench

Advocate : Rakesh Tikku, Sr. Advocate instructed by Jeevesh Nagrath and Rajeshwar K. Gupta, Advocates, for the Appellant; Jasmeet Singh and Ashta Sharma, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

Pradeep Nandrajog, J.

CM 21246/2015 (addl. documents)

1. By this application the appellant seeks to bring on record the subsequent events in the Vidyapeeth particularly with regard to mismanagement. However, during the course of arguments, no such grounds are pressed.

2. The application is dismissed as not pressed.

LPA 983/2011

3. Advertisement seeking applications for appointment to various teaching posts including Professors and Readers were published by the respondent No. 2 Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeeth (in short the Vidyapeeth) in January 2004. The appellant Dr. T.D. Muralidharan applied for the post of Reader (Research & Publication) for which the eligibility conditions were:

"1. Good academic record with a doctoral degree or equivalent published work. In addition to these candidate who join from outside the university system, shall

also possess at least 55% of the marks or an equivalent grade of B in the 7 point scale with latter grades O, A, B, C, D, E and F at the Master's Degree level in the relevant field.

2. Five years experience of teaching and/or research (in the relevant field) excluding the period spent for obtaining the research degrees and has made some mark in the areas of scholarship as evidenced by quality of publications, contribution to educational innovation, design of new courses and curriculum."

4. The advertisement also prescribed that it was desirable for the post of Reader (Research & Publication) to have:

"(a) Knowledge of textual criticism and manuscriptology

(b) Knowledge of printing and publishing of Sanskrit texts."

5. Pursuant to the advertisement interviews of the candidates were held on March 12, 2004 when as claimed by the appellant all the originals were checked. After the interview the Selection Committee recommended a panel for appointment of Reader (Research & Publication) wherein Dr. T.D. Muralidharan was placed at Serial No. 1. The Selection Committee constituted of the Vice-Chancellor Prof. Vachaspati Upadhyaya as well as Prof. Ramesh Kumar Pandey. On April 15, 2004 in the 51st meeting of the Karya Parishad recommendations of the Selection Committee for appointment of the appellant to the post of Reader (Research & Publication) was accepted and the offer of appointment letter was also signed by the Registrar and sent to the dispatch section where it was duly endorsed. However on April 16, 2004 the offer of appointment order was called back from the dispatch postal Dak Register by the Registrar of the Vidyapeeth and was kept in abeyance. It is the case of the respondent/Vidyapeeth that a Sub-Committee was constituted which resolved on September 18, 2004 to reject the selection of the appellant which resolution was approved by the Karya Parishad in its 54th meeting held on October 25, 2004. The reason for keeping the appointment in abeyance was a letter received on April 16, 2004 which informed that Dr. T.D. Muralidharan neither submitted the relevant research and published material nor produced the published book before the Selection Committee and he did not possess the requisite qualification.

6. The appellant filed a writ petition being W.P. (C) No. 15197/2004 which was disposed of vide order dated March 24, 2007 and it was directed that the writ petition be treated as a representation of the petitioner to the respondent No. 3 i.e. Justice P.N. Bhagwati (Retd.), Chancellor of the Vidyapeeth. The Chancellor of the Vidyapeeth after treating the writ petition as representation and after giving oral hearing to counsel for Dr. T.D. Muralidharan and the counsel for the Vidyapeeth referred the publication, published research papers and articles of Dr. T.D. Muralidharan to three outside scholars who rendered their opinion on the basis of which the Chancellor held:

"After reviewing all related documents/papers and the opinions of the three

experts, I am of the opinion that Dr. Muralidharan is not eligible for appointment to the post of Reader (Research & Publication) as his publications do not show any quality evidencing scholarship nor has he made any contribution to educational innovation required for this post as per the Advertisement No. Rect-1/2003. Since he is not eligible for appointment to the post of Reader (Research & Publication) and the offer of appointment has not been made to him, I am of the considered view that an ineligible candidate should not be appointed on a senior academic position like Reader (Research & Publication). I approve the recommendation of the Karya Parishad made at its 54th meeting held on 25.10.2004 not accepting the recommendation made by the Selection Committee on 12.03.2004. I also direct that since there were certain deficiencies in the scrutiny of the applications, the post of Reader (Research & Publication) be re-advertised and be filled up as per the eligibility criteria prescribed by the UGC. The representation of Dr. T.D. Muralidharan accordingly stands disposed of in terms of this order. The Registrar is directed to communicate this order to Dr. T.D. Muralidharan under intimation to all concerned."

7. Thereafter the appellant preferred W.P. (C) No. 2198/2008 which was dismissed vide the impugned order, hence the present appeal.

8. Learned counsel for the appellant contends that the prescribed qualification for the post of Reader does not stipulate that the candidate should be an eminent scholar. The findings of the Sub-Committee and for that matter the decision of the respondent No. 3 the Chancellor of the Vidyapeeth arrived at by seeking opinion from independent experts are unwarranted. After the recommendations of the Selection Committee were approved by the Karya Parishad the Vice-Chancellor had no power to recall the appointment letter as was done in the present case. The initial complaint was from Prof. Sukhdev Chaturvedi who was not a member of the duly constituted Selection Committee and thus did not know what transpired before the Selection Committee. The Selection Committee neither violated any guideline nor rule and having prepared the merit panel the appointment to the appellant could not have been denied.

9. Learned counsel for the respondent/Vidyapeeth contends that though appellant came for the interview he never complied with the instructions/conditions as mentioned in the appointment letter and sought time to furnish the document/academic qualification, publication and other achievements as mentioned in his application, which he later failed to substantiate. The appellant did not produce the books and publications which have been mentioned in the application, which fact has been admitted by him in his letter dated April 23, 2004. The HOD (Research & Publication) requested the Vice-Chancellor not to issue the appointment letter without verification of the authenticity of the claim made by the appellant in his application. Even in the letter dated April 23, 2004 appellant admits having submitted only 6 books to Vidyapeeth out of 8 books as claimed in the application. The letter of offer of appointment "was not issued to the appellant after the 51st meeting of Karya Parishad held on April 15, 2004" for

the reasons: firstly a letter was received from Prof. Sukhdev Chaturvedi submitting his objections regarding the selection and requesting for withholding the issue of offer of appointment letter as the appellant did not produce the published book before the Selection Committee on March 12, 2004; secondly the Vice-Chancellor directed the appellant to prove his credentials in support of his candidature vide letter dated April 19, 2004 and though 8 books were mentioned in the application only 6 were submitted in response to the letter of the Vice-Chancellor along with letter dated April 23, 2004; thirdly Prof. Ramesh Kumar Pandey member of the Selection Committee requested the Vice-Chancellor to review the selection as he did not produce the books and publications at the time of interview; fourthly the Karya Parishad at its 52nd meeting held on May 24, 2004 did not confirm the Minutes of its 51st Meeting held on April 15, 2004 and in the 54th meeting held on October 25, 2004 rejected the recommendation of the Selection Committee passed on the Sub-Committee's report dated September 18, 2004.

10. The learned Single Judge held that as per the settled position a selected candidate has no right to appointment and as long as some reason exist the Court cannot compel the appointing authority to make the appointment. The facts as noted above are not in dispute except to the extent that Dr. T.D. Muralidharan contends that at the time of interview his certificates etc. were checked which fact is noted in the application, the legal position is thus required to be noted.

11. The Constitution Bench in the decision reported as *Shankarsan Dash Vs. Union of India*, laid emphasis on the fact that the candidate should be found fit so as to acquire an indefeasible right to be appointed which cannot be legitimately denied. Thus two principles follow firstly that the selected candidate should be fit and secondly for legitimate reasons the appointment can be denied.

12. In the decision reported as *Union Territory of Chandigarh Vs. Dilbagh Singh and others*, the Supreme Court reiterating the legal position held that a candidate who finds a place in the select list as a candidate does not acquire an indefeasible right to be appointed in such post in the absence of any specific rule entitling him to such appointment. It was held that even if the candidate has legitimate expectations of being appointed due to his name finding a place in the select list of candidates, he cannot claim to have a right to be heard before such select list is cancelled for bona-fide and valid reasons and not arbitrarily. In the said case Chandigarh Administration accepted the complaints and cancelled the select list which the Court held could not be termed either arbitrary or without bona-fide and was for valid reasons.

13. In the decision reported as *R.S. Mittal Vs. Union of India (UOI)*, the Supreme Court held that when a person is on a select panel though he has no vested right to be appointed to the post for which he has been selected, however the appointing authority can ignore him only for justifiable reasons to appoint him.

14. Thus from the facts as noted above, in the 52nd meeting of the Karya Parishad the appointment of Dr. T.D. Muralidharan was not confirmed and in the 53rd meeting a Sub-Committee was constituted to evaluate the academic credentials of Dr. T.D. Muralidharan either by itself or by co-opting member(s) from the relevant field if it deemed fit. The Sub-Committee constituted by the Karya Parishad met on September 18, 2004 and observed that none of the published work, research papers and articles etc. claimed by Dr. T.D. Muralidharan came up to the required standard and satisfied the test of high quality of contribution and educational innovations required for consideration of the of the position of Reader (Research & Publication).

15. The Sub-Committee after going through the material came to the conclusion that the book "Alankara Lakshanam" which consists of seven pages in all was authored by Shri Ranga Suri and its manuscript was procured by Dr. Muralidharan and got published through Ananthacharya Indological Research Institute, Bombay and he was not the author of the book. Secondly "The Divine Wisdom of Dravidian Saints" was authored by Shri Alkondavilli Govindacharya and Dr. Muralidharan only re-printed and thus again he was not the author of the book. Further "Sri Venkatesa Suprabhata Stotra" a devotional booklet was also not authored by Dr. Muralidharan and he only translated the verses into Tamil. Similarly, "Tiruvaymozhi" a collection of devotional songs was translated by the appellant in English and for "Seven Upanishad" which was also translated in to English he was only a General Editor. Further songs in praise of "Glory of Alvars and Acharyas" was also only edited by the appellant. Rest of the two books were not submitted. With regard to research papers the Committee was of the opinion that they were merely articles. Similarly while deciding the representation, the Chancellor of the Vidyapeeth took assistance from three outside scholars who were also of the concurrent opinion that the appellant did not fulfil the eligibility criteria and agreed with the recommendations of the Sub-Committee dated September 18, 2004 as noted above.

16. There being justifiable reasons to decline appointment to the appellant despite his having been recommended by the Selection Committee, the impugned judgment warrants no interference. The appeal is accordingly dismissed.