
(2006) 02 AHC CK 0090
In the Allahabad High Court
Case No : Writ Petition No. 5547 of 1993 (S/B)

Seema Shah

APPELLANT

Vs

State of U.P.& Ors.

RESPONDENT

Date of Decision : 06-02-2006

Acts Referred:

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

Citation : (2006) 02 AHC CK 0090

Hon'ble Judges : Pradeep Kant, J and Rajiv Sharma, J

Final Decision : Dismissed

Judgement

1. Heard learned Counsel for the parties.

2. The petitioner Km. Seema Shah appeared in the selection for the post of lecturer in the department of Urdu in the University of Lucknow in pursuance to an advertisement No. 5/1991, dated 25/9/1991. The Selection Committee recommended her name at serial No. 1 of the panel besides Miss Azra Parveen and Mr. Ehtisham Hussain at serial number 2 and 3. The recommendation of the Selection Committee was considered by the Executive Council which came to the conclusion that the petitioner as well as Miss Azra Parveen at serial No. 2 of the panel were not having requisite qualification and they were thus not qualified for being appointed. As such the matter was referred to the Chancellor under Section 31 (8) (a) of the U.P. State Universities Act, 1973. The Chancellor vide his order dated 25th July, 1993 rejected the recommendations made by the Selection Committee in favour of the petitioner after holding and confirming that the petitioner was not possessing minimum essential qualification as prescribed for the post.

It is not in dispute that by virtue of an amendment in the year 1988, on the basis of recommendation of University Grants Commission, the statutes were amended bringing into essentiality of qualifying ?NET examination subject to exception provided in the relevant Statute 11.01 (7) which are as under:

(7) For appointed to the post of Lecturer only those candidates shall be eligible who, besides fulfilling the minimum academic qualifications prescribed for the post of lecturer, have qualified in comprehensive test, if any, to be conducted as per scheme of University Grants Commission.

Provided that a candidate:

(1) Who has passed University Grants Commission or Council of Scientific and Industrial Research or Junior Research Fellowship examination;

(2) Who has already been awarded Ph.D. or M. Phil degree; or

(3) Who will be awarded M. Phil. Degree up to December, 1990 or Ph.D. degree up to December, 1992;

shall not be required to qualify in such a comprehensive test.

3. Admittedly, the petitioner had not cleared the requisite examination of University Grants Commission nor was possessed of Ph.D. degree, therefore, lacked essential qualification.

4. Sri Kapil Dev appearing for the petitioner states that it is a clear case of discrimination as several teachers and lecturers were appointed during that period who did not possess requisite qualifications of University Grants Commission but the petitioner has been discriminated and denied appointment. In response, Sri Sharad Kumar Srivastava submitted that though in some cases since there was interim order, such appointments were made but that interim order was vacated on 25th July, 1993, and the said writ petitions were also dismissed. So far as the selection of the petitioner is concerned, it was made after 25th July, 1983 and at that time no interim order was in existence.

5. The plea that certain persons were appointed as lecturer, who were not possessing requisite statutory qualification, if it is taken to be correct, the petitioner cannot take any advantage of illegality committed by the opposite parties nor such illegality can be perpetuated. The Court would not issue any direction for giving appointment to a person who lacks essential qualifications. We, therefore, do not find it necessary to scrutinize the appointments of those persons who have been named in paragraph No. 11 of the writ petition. We also restrain from doing so also in view of the fact that none of those persons have been impleaded in the petition nor any relief has been claimed against them.

6. It is apparent that the petitioner was not having requisite statutory qualification as prescribed, as such she cannot claim appointment and the order passed by the Chancellor, thus, does not call for any interference.

7. The writ petition is dismissed.