

CASE NO.:
Appeal (civil) 7244 of 2005

PETITIONER:
Umrao Singh

RESPONDENT:
Punjabi University, Patiala, & Ors

DATE OF JUDGMENT: 06/12/2005

BENCH:
ARIJIT PASAYAT & S.H. KAPADIA

JUDGMENT:
J U D G M E N T
(Arising out of S.L.P. (C) No. 17044 of 2005)
WITH
CIVIL APPEAL NO. 7245 OF 2005
(Arising out of S.L.P. (C) No. 18092 of 2005)

AND

CIVIL APPEAL NO.7246-7247 OF 2005
(Arising out of S.L.P. (C) Nos. 18993-94 of 2005)

AND

CIVIL APPEAL NO.7248 OF 2005
(Arising out of S.L.P. (C) No.25298 of 2005)
CC No. 11226 of 2005

ARIJIT PASAYAT, J.

Leave granted.

In these appeals challenge is to the judgment rendered by a Division Bench of the Punjab & Haryana High Court holding that the selection of the appellants for the post of Lecturers in the Department of Defence and Strategic studies was illegal.

The factual background in a nutshell is as follows:

Punjabi University, Patiala through its Registrar issued an advertisement in the newspapers on July 25, 2002 vide which various posts of Readers as well as Lecturers for different departments were advertised. Three posts of Lecturers in the Department of Defence & Strategic Studies were advertised. The last date for receipt of applications from eligible persons was indicated as August 12, 2002. Through a corrigendum later on, the last date for receipt of the applications was extended up to September 16, 2002. As per the rules and regulations of the respondent-University, the eligible conditions for applying to the post of Lecturer in the University are as follows:

"(a) The basic qualification for the post of

Lecturers is MA in defence Strategic Studies and eligibility test for the Lecturership conducted/credited by UGC.

(b) The candidates who have completed M.Phil degree by 31st Dec. 1993 or have submitted Ph.D. Thesis to the University in the concerned subject before 31st Dec. 2002 are exempted from appearing the NET/SET examination conducted by the UGC.

(c) As per the advertisement the candidate must have passed Punjabi in Matriculation examination or have passed Punjabi Prabodh or Punjabi Praveshika Examination. Candidates belonging to States other than Punjab or Union Territory Chandigarh, who have not passed Punjabi at Matric level are required to pass Punjabi Prabodh examination from language Department, Punjab Patiala before appearing for interview."

Mr. Ajay Sondhi and Suveer Singh filed writ applications challenging selection of the appellants as Lecturers. The writ petitioners Ajay Sondhi and Suveer Singh claimed that being eligible candidates and fulfilling all the terms and conditions, they had applied for the post of a Lecturer in Defence and Strategic Studies before the last date of submission of the applications. They qualified at eligibility test for Lecturership in University and Colleges, conducted by University Grants Commission. It was further specifically pleaded by them that they had studied Punjabi in matriculation also.

They made a grievance that Umrao Singh and Kewal Krishan who had applied for the post of Lecturer were not eligible as they were not qualified. Umrao Singh had not qualified the eligibility test for the Lecturership in Universities and Colleges, as required by the University Grants Commission and was not even exempted from the aforesaid test, since he had submitted his Ph.D thesis on September 23, 2002 only i.e. after the last date of receipt of the applications. Similarly, Kewal Krishan was not eligible since he had not passed his matriculation examination with Punjabi language. Accordingly, it was claimed that the selection of the aforesaid Umrao Singh and Kewal Krishan was totally contrary to the University Rules and Regulations and also contrary to the advertisement.

The claim of the writ-petitioners Ajay Sondhi and Suveer Singh was resisted by the respondents, i.e. the University and the non-official respondents. The university submitted that Umrao Singh had submitted his thesis for evaluation on 16.9.2002 and not on 23.9.2002 as was claimed. Reliance was also placed on a decision dated 10.1.2003 whereby the Syndicate had decided that period of two years would be given to the recruits/selectees for passing Punjabi upto matriculation examination and the condition of Punjabi upto matriculation level at the time of recruitment shall not be implemented and the aforesaid examination was to be conducted by the University itself. The High Court was of the view that though by corrigendum the last date was extended upto 16.9.2002, the original date was 12.8.2002 and, therefore, respondent no.3-Umrao Singh was not eligible. In any event he had submitted the thesis on 23.9.2002. Similarly, it was held that respondent no.4-Kewal Krishan was not eligible as he had not qualified

his matriculation examination in Punjabi language. Accordingly, the selection of Umrao Singh, Kewal Krishan and Inderjeet Singh was quashed.

In support of the appeals learned counsel for the appellants submitted that the approach of the High Court is clearly erroneous. Learned counsel for the appellant-Umrao Singh submitted that the requirement in the advertisement was as follows:

- "(a) The basic qualification for the post of Lecturers is MA in defence Strategic Studies and eligibility test for the Lecturership conducted/accredited by UGC.
- (b) The candidates who have completed M.Phil degree by 31st Dec. 1993 or have submitted Ph.D. Thesis to the University in the concerned subject before 31st Dec. 2002 are exempted from appearing the NET/SET examination conducted by the UGC.
- (c) As per the advertisement the candidate must have passed Punjabi in Matriculation examination or have passed Punjabi Prabodh or Punjabi Praveshika Examination, candidates belonging to States other than Punjab or Union Territory Chandigarh, who have not passed Punjabi at Matric level are required to pass Punjabi Prabodh examination from language Department, Punjab Patiala before appearing for interview."

Undisputedly, the last date for making the application in terms of the corrigendum issued was 16.9.2002. The High Court proceeded on erroneous impression that the thesis of the appellant-Umrao Singh was submitted on 23.9.2002. The High Court held that he had neither passed the eligibility test conducted by the University Grants Commission nor he had submitted the thesis for Ph.D. entitling him for exemption from the said test. The appellant Kewal Krishan and the University submitted that in terms of the Syndicate decision dated 10.1.2003, extended period was granted to pass Punjabi examination. There was no suppression of any material fact and considering his comparatively better merit he was selected. Learned counsel for Inderjeet Singh submitted that though there was no grievance made by the writ-petitioner so far he is concerned; his selection has also been quashed. Learned counsel for the University supported the stand of the appellants. Learned counsel appearing for Ajay Sondhi submitted that the High Court has analysed the factual position in its proper perspective and there is no infirmity in its conclusions to warrant interference.

The case of the appellant-Umrao Singh does not present any factual controversy. From the stand of the University and the documents annexed, it is clear that Umrao Singh submitted his thesis on 16.9.2002 which was within the period of eligibility. That being so, the High Court was not justified in accepting the stand of Ajay Sondhi that the thesis was submitted on 23.9.2002. By referring to a wrong date the selection of Umrao Singh was held to be invalid. The conclusion is clearly erroneous. The selection of Umrao Singh does not suffer from any infirmity.

So far as appellant Inderjeet Singh is concerned there

was no challenge to his selection and, further the High Court indicated no reason as to how his selection was not legal. On that ground alone the order of the High Court so far as appellant Inderjeet Singh is concerned stands quashed.

So far as the appellant Kewal Krishan is concerned, though the University supported the selection, one thing is clear that the advertisement itself indicated that the applicant was required to pass the concerned examination before appearing for interview. Admittedly, this is not a case of that nature. The decision of the University subsequent to the last date of making the application and after the process of selection had started cannot, in any way, come to the assistance of appellant-Kewal Krishan. The eligibility criteria of passing the Punjabi examination was a condition which goes to the root of eligibility. By a subsequent decision that condition could not have been altered.

Another aspect which this Court has highlighted is scope for relaxation of norms. Although Court must look with respect upon the performance of duties by experts in the respective fields, it cannot abdicate its functions of ushering in a society based on rule of law. Once it is most satisfactorily established that the Selection Committee did not have the power to relax essential qualification, the entire process of selection so far as the selected candidate is concerned gets vitiated. In P.K. Ramchandra Iyer and Ors. v. Union of India and Ors. (1984 (2) SCC 141) this Court held that once it is established that there is no power to relax essential qualification, the entire process of selection of the candidate was in contravention of the established norms prescribed by advertisement. The power to relax must be clearly spelt out and cannot otherwise be exercised.

In Maharashtra State Road Transport Corpn. And Ors. v. Rajendra Bhimrao Mandve and Ors. (2001 (10) SCC 51), it was held as under:

"It has been repeatedly held by this Court that the rules of the game, meaning thereby, that the criteria for selection cannot be altered by the authorities concerned in the middle or after the process of selection has commenced. Therefore, the decision of the High Court, to the extent it pronounced upon the invalidity of the circular orders dated 26.6.1996, does not merit acceptance in our hand and the same are set aside."

The view was recently re-iterated in Secretary, Andhra Pradesh Public Service Commission v. B. Swapna and Ors. (2005 (2) Supreme 615).

Therefore, the High Court was right so far as its decision relates to appellant Kewal Krishan is concerned, and no interference is called for. In the ultimate, the appeals filed by Umrao Singh and Inderjeet Singh are allowed while the appeal filed by appellant Kewal Krishan is dismissed. There shall be no order as to costs. It is however made clear that the selection process which was permitted to be continued shall be finalized, after giving

effect to the present judgment.

JUDIS