



2024 : DHC : 3847



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 08.05.2024

+ W.P.(C) 1323/2020

DR. GYAN DHAR PATHAK ..... Petitioner

versus

REGISTRAR, SHRI LAL BAHADUR SHASTRI RASHTRIYA  
SANSKRIT VIDYAPEETHA AND ORS. .... Respondents

**Advocates who appeared in this case:**

For the Petitioner: Mr. Pramod Singh, Mr. Sushil Vats, Ms. Nandhini Singh, Mr. Evvica Sanjay Messey, Mr. Adrina Sanjay Messey, Ms. Ashtha, Ms. Anita, Ms. Parul Saxena, Mr. Raj Kumar and Mr. Jitender Kanwar, Advocates.

For the Respondent: Mr. Vibhakar Mishra and Mr. Utkarsh Mishra, Advocates for R-1.

Mr. Manoj R. Sinha and Ms. Nisha Thakur, Advocates for R-2/UGC (through VC).

Mr. Vivekand Mishra, Senior Panel Counsel, UOI/R-3.

**CORAM:**  
**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

**JUDGMENT**

**JUSTICE TUSHAR RAO GEDELA, J. (ORAL)**

**[ The proceeding has been conducted through Hybrid mode ]**



1. This is a writ petition under Article 226 of the Constitution of India, *inter alia*, seeking following reliefs:

*“a) issued a writ in the nature of Mandamus or any other appropriate writ, order, direction directing the respondents to upgrade/re-designate the petitioner in the post of Assistant Professor, as per the Government decision dated 08.10.1992 and also in view of the fact that other; universities had upgraded/promoted Research Assistant to Assistant Professor, as per their qualification and experience.*

*b) to direct the respondents to release the grade of Assistant Professor to the petitioner with effect from the date, he is entitled for the same and also release all the consequential benefits including arrears of pay, allowances etc. with interest @ 9% p.a. from the date he is entitled to the date of actual payment.”*

2. It is stated that on 02.12.1998, the petitioner had joined respondent no.1/University, as a Proof Reader on *ad-hoc* basis. In the year 2002, the petitioner was confirmed as a permanent Proof Reader in the said respondent no.1/University till 26.11.2007. In the meanwhile, on 25.11.2002, the Commissioner of Higher Education, Chandigarh, Haryana, through letter no.5/11-2002-U.N.P.(1) dated 25.11.2002 had upgraded the post of Research Assistant to that of Assistant Professor working in Maharishi Dayanand University, Rohtak, on the basis of similar upgradation carried out in Kurukshetra University, Haryana of Research Assistant to Assistant Professor. While the petitioner was continuing as a Proof Reader, he had qualified for being promoted as a Research Assistant which was duly communicated *vide* a letter dated 27.11.2007. The petitioner claims to



have obtained M.Phil., Ph.D in Sanskrit and according to the petitioner, he is fully qualified both in terms of educational qualification as also experience, to be re-designated as Assistant Professor. It is stated that *vide* the letter dated 30.03.2011, the respondent no.1/University had promoted 12 Research Assistant to the Assistant Professor as per letter no.F-11-15/2009 Skt.II dated 30.03.2011, after approval was taken from the Ministry of Human Resource Department. The petitioner states that he had submitted a representation on 25.05.2011 to the Registrar of the respondent no.1/University to upgrade/re-designate his post as that of an Assistant Professor. Though a number of representations were submitted, however, no response was received from the respondent no.1/University. It is also stated in the petition that the Banaras Hindu University had upgraded/re-designated some of its Research Associates to the post of Assistant Professor, as per the letter dated 15.02.2019. It is acknowledged in the said letter that the University Grants Commission had approved such upgradation/re-designation.

3. Learned counsel appearing for the petitioner submits that the case of the petitioner has not been considered in its proper perspective having regard to the communication emanating from the University Grants Commission.

4. *Per Contra*, learned counsel appearing for the respondent no.1 University draws attention of this Court to page 14 of the Counter Affidavit, which is Annexure-R-1 to submit that the petitioner had submitted a representation on 30.10.2012 seeking upgradation of the



pay-band of the post of Research Assistant from 9300-34800 (pay level-6) to that 15600-3900 (academic pay level-10). The same was considered by the Competent Authority of the University. However, since there was no proposal or approval from the University Grants Commission, the same could not have been acceded to.

5. It is also submitted that the University Grants Commission *vide* its letter dated 18.05.2015 had sought certain queries which were suitably answered by the respondent No.1/University on 28.06.2015. Learned counsel invites the attention to Query no.2 of the said letter and submits that the respondent no.1/University had informed the University Grants Commission that in case the proposal of upgradation/re-designation is approved, then the post of Research Assistant, which exists with them, would stand abolished and would be adjusted against the existing sanctioned vacant post of Assistant Professor of the respondent no.1/University as per the guidelines of the University Grants Commission and the approval of the Board of Management.

6. The learned counsel also invites attention to the letter dated 05.08.2015 issued by the University Grants Commission after receiving the aforesaid letter wherein it was informed that since the job profile of Research Assistant and Assistant Professor cannot be termed as same, the proposal cannot be agreed to. Simultaneously, it was also informed that the Assistant Professor is an entry level post in the respondent no.1/University and therefore, can be filled up only through a direct recruitment in accordance with the UGC Regulations,



2010.

7. This Court has heard the arguments of learned counsel for the petitioner as also learned counsel for the respondents.

8. The qualifications of the petitioner as to whether he fulfills the essential qualifications for the post of Assistant Professor is to be considered first by the respondent no.1/University and only thereafter by the University Grants Commission as to whether it falls within the Regulations of UGC, 2010 and as amended in the year 2018. The respondent no.1/University had initially only sent the proposal of upgradation of the pay-band of the petitioner from that of the Research Assistant to the scale of Assistant Professor which was not agreed to by the respondent/UGC as noted above. The issue in the present case would now not be limited to the upgradation in the pay scale. The prayer of the petitioner is in terms of upgradation/re-designation of the post of Research Assistant as that of Assistant Professor in view of the guidelines as also letter dated 30.03.2011. It would be apposite to extract the letter dated 30.03.2011 emanating from the Govt. of India, Ministry of Human Resource Development, which is as under:

*“NO.F11-15/2009SKTI/II  
Government of India  
Ministry of Human Resource Development  
(Department of Higher Education)*

*New Delhi, March,2011*

*To,  
Prof. Radhavallabh Tripathi  
Vice chancellor  
Rashtriya Sanskrit Sansthan*



56.57 Institutional Area,  
Janakpuri, New Delhi

*Subject:- Creation of 31 posts of Lecturer into Assistant Professor in lieu of PGTs/Jr. Lecturer/TGT/R.As in Rashtriya Sanskrit Sansthan-regarding.*

*Sir,*

*I am directed to refer to your letter No.11012/2006-ADMN/RSKS/5543 dated 17.03.2011 on the subject mentioned above and to state that the proposal for creation of 43 posts of Assistant Professors (PB-3/AGP Rs.6000/-) in lieu of 60 posts of PGT/Jr. Lecturers/TGT/R.A. in Rashtriya Sanskrit Sansthan has been considered in consultation with ministry of finance, department of expenditure vide their ID no.F49917/EC1(2)/2011 dated 30.03.2011.*

*2. Ministry of finance, dept. of expenditure has agreed for creation of 31 posts of Assistant Professor at this stage to recommodate PGTs/TGTs/junior lecturers/research assistants found eligible by the pre-security committee, subject to the following conditions;*

*i). The vacant posts out of 60 posts of PGTs/TGTs/junior lecturers/research assistants will be abolished with immediate effects, rest of the posts will be abolished a sand when they fall vacant.*

*ii) Only the PGTs/TGTs/junior lecturers/research assistants presently in employment with RSKS will be considered for appointment for these posts.*

*iii). The PGTs/TGTs/junior lecturers/research assistants not eligible for appointment as Assistant Professor will continue in their present posts. RSKS may seek creation of additional posts or accommodate them against the existing vacant posts if they acquire eligibility for appointment as Assistant Professor at a later stage.*

*iv). The eligible PGTs/TGTs/TGTs/junior lecturers/research assistants will be placed in the grade of Assistant*



*Professor with prospective effects i.e. the date of appointment as Assistant Professor.*

*v). The newly created posts of Assistant Professor will be abolished as and when the present incumbents vacate the posts due to any reason. If RSKS required additional posts of Assistant Professor, they may seek fresh creation of posts providing full functional jurisdiction.*

*Yours faithfully*

*-sd-*

*(Pawan Mohta)*

*Under secretary to the govt. of India*

*Tel/Fax no.23381782”*

9. This Court has also considered the letter dated 15.02.2019 stated to have been issued by the University Grants Commission to the Registrar of Banaras Hindu University. The same appears to be assisting the case of the petitioner, though Mr. Sinha has his reservations on the said letter. The only issue which needs to be culled out from the said letter is that the University Grants Commission did consider the post of Research Officer for re-designation to the post of Assistant Professor in the Banaras Hindu University. Whether the said post of Research Officer is equivalent to that of the Research Assistant in the present University, the respondent no.1/University as also the UGC would obviously consider while processing the application of the petitioner.

10. Learned counsel invites attention to the letter dated 20.10.2020 issued by the University Grants Commission, where the proposal dated 02.01.2020 seeking rationalization of the post of Research Assistant as Assistant Professor was turned down.



11. This Court has perused the contents of the said letter. The University Grants Commission appears to have turned down the proposal in view of the fact that the post of Research Assistant cannot be compared with the post of Research Officer of the Banaras Hindu University since, the pay scale of the Research Assistant is much lower at Pay Level 06 in comparison to that of the Research Officer, whose pay scale is at Pay Level-10 and as such, had rejected the said proposal.

12. After having gone through this letter too, this Court is of the considered opinion that the Competent Authority of the respondent no.1/University ought to reconsider the prayer of the petitioner afresh, keeping in view the letter dated 30.03.2011 by treating the present writ petition as a representation and dispose of the same within four weeks from today. The petitioner shall also be afforded an opportunity of hearing and be also permitted to submit any further supporting documents in his support.

13. The Competent Authority of the respondent no.1/University shall keep in view the letter dated 30.03.2011 while considering the case of the petitioner for re-designation of the post of Research Assistant as Assistant Professor. It shall also keep in mind the eligibility conditions as prescribed by the UGC under the Regulations of 2010 as amended in 2018.

14. Once the Competent Authority of the respondent no.1/University disposes of the representation with speaking order, the same shall be communicated to the petitioner within one week





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thereafter. In case, the respondent no.1/University agrees to re-designate and finds the petitioner falling within the regulations of the University Grants Commission, the said proposal for such purpose shall be communicated further to the University Grants Commission. The University Grants Commission is directed to dispose of the said proposal within four weeks from the date of its receipt. The University Grants Commission shall communicate the order thereon to the respondent no.1/University as also to the petitioner within one week thereafter.

15. In view of the above, the present writ petition is disposed of with no order as to costs.

**TUSHAR RAO GEDELA, J**

**MAY 8, 2024/kct**