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

Date of decision: 16.05.2024

+ W.P.(C) 1379/2020

DR. VIJAY KUMAR TIWARY AND ANR. Petitioners

Through: Mr. Vishal Arun Mishra, Advocate

versus

UNIVERSITY GRANT COMMISSION AND ORS..... Respondents

Through: Mr. Manoj Ratan Sinha, Ms. Nisha
and Mr. Deepak Sain, Advocates for
Respondent No. 1 / UGC

+ W.P.(C) 6047/2020

DINESH CHAND & ANR. Petitioners

Through: None.

versus

UNIVERSITY GRANTS COMMISSION & ORS. Respondents

Through: Mr. Bhagwan Swaroop Shukla,
CGSC with Mr. Adarsh Pandey, Adv.

+ W.P.(C) 7656/2020

DR. NIKHIL KUMAR AND ORS Petitioners

Through: None.

versus

UNIVERSITY GRANTS COMMISSION AND ORS..... Respondents

Through: None.



+ W.P.(C) 12907/2021

HARI NIWAS AND ANR

..... Petitioners

Through: Mr. Padma Kumar, Mr. V. S.R.
Krishna and Mr.Gurpreet Singh,
Advs.

versus

UNIVERSITY GRANTS COMMISSION AND ORS..... Respondents

Through: Mr. Rishabh Sahu, SPC for R-2

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

SAURABH BANERJEE, J (ORAL)

1. The present batch of petitions under Articles 226 and 227 of the Constitution of India seek to assail a common order dated 23.08.2019 passed by the learned Central Administrative Tribunal (the learned Tribunal) in O.A. No. 663/2014. Vide the impugned order, the learned Tribunal while considering the challenge of the petitioners to the selection process conducted by the respondents for appointment to the post of Education Officer advertised on 17.02.2013, has partly allowed the OA by directing that the petitioners in W.P.(C) 6047/2020, who were applicant nos.1 and 5 before the Tribunal in O.A. No. 663/2014, be considered for appointment under the OBC and SC category respectively, by giving 85% weightage to the marks obtained by them in the written examination and 15% weightage to their interview. Further, the learned Tribunal also directed that



supernumerary posts be created for accommodating the said two petitioners/ applicants, and for the purposes of all consequential benefits, the appointment of the said two petitioners be reckoned from their actual date of joining.

2. Being aggrieved by the aforesaid direction, the said two petitioners, by way of W.P.(C) 6047/2020 seek to assail the impugned order to the extent it directs that for the purposes of all consequential benefits, their appointment shall take effect only from the actual date of their joining. The petitioners who were applicant nos. 4 and 6 before the Tribunal in the aforesaid O.A. No. 663/2014, have approached this Court by way of W.P.(C) 12907 of 2021 seeking appointment by urging that the method adopted by the learned Tribunal in appointing the aforesaid two petitioners, be applied to them as well. On the other hand, the petitioners in W.P.(C) 7656/2021, who were not were not applicants before the learned Tribunal have approached this Court with a prayer that the impugned order be set aside. We may also note that the petitioners in W.P.(C) 1379/2020, who were applicant nos. 2 and 3 before the Tribunal in the aforesaid O.A. No. 663/2014, have moved this Court with a prayer that the impugned order be quashed and the respondent be directed to prepare a revised final list by restricting the marks of the interview to 10%. Since, all the writ petitions arise out of the common impugned order and entail similar facts involving the same question of law, we are taking up all the petitions together for disposal.

3. While learned counsel for the petitioners in W.P.(C) 6047/2020 submits that the direction issued in the impugned order, particularly the formula of 85% weightage to the written examination and 15% weightage



for the interview is fully justified and the petitioners ought to be granted their seniority from the date other candidates initially selected were appointed, whereas learned counsels for the petitioner(s) in the other writ petitions submit that even if the application of this formula of 85% weightage to the written examination and 15% weightage for the interview were to be upheld, the benefit of the same ought to have been extended to all candidates who had appeared in the examination. They further make alternate prayers that if this Court is not inclined to tinker with the impugned order, further supernumerary posts be also created for all the petitioner(s). It is, thus, that the learned counsels for the petitioners respectively seek allowing of the present petition(s) in terms of the respective prayer(s) sought by them.

4. On the other hand, learned counsel for the respondents supports the impugned order and submits that the said order was a consent order with the respondents having given their consent on the premise that only two additional candidates will have to be accommodated by way of supernumerary posts. He submits that it would not be possible at this stage to accommodate any further candidates by supernumerary post. He, therefore, prays that the writ petitions be dismissed.

5. Having considered the submissions of learned counsel for the parties and perused the records, we are of the considered view that the course adopted by the learned Tribunal was wholly impermissible. We say so as in our opinion even if the learned Tribunal was inclined to accept the plea of the petitioners that 85% weightage ought to have been given to the written examination with 15% weightage to the interview, this formula ought to have been directed to be applied to all candidates who had participated in the



selection process and could not have been restricted to only two candidates who were before the learned Tribunal. Allowing this to continue would tantamount to two different sets of procedures followed for the same test, which in our view was wholly impermissible and against the very basic tenets of the preamble enshrined in the Constitution of India.

6. We are therefore constrained to observe that the learned Tribunal appears to have passed the impugned order without realising the implications thereof qua other the candidates who had taken part in the selection process. We, therefore, have no hesitation to set aside the impugned order and allow the writ petition remanding the matter back to the learned tribunal for O.A. No. 663/2014 which will stand revised. Needless to state, the learned Tribunal will be free to decide the same on merits without being influenced by the impugned order.

7. However, taking into account that the two petitioners in W.P.(C) 6047/2020 have been discharging duty as an Education Officer after being granted appointment in pursuance of the impugned order for the last four years, we direct that they be permitted to continue in service till the learned Tribunal decides the OA again whereafter, subject to the appellate remedies as available under law, they will be governed by the fresh order that may be passed by the Tribunal.

8. While remanding the matter back to the learned tribunal, it is made clear that his Court has not expressed any opinion as to whether the learned Tribunal was justified in directing that 85% weightage be given to the written examination and 15% weightage for the interview. The learned Tribunal will however ensure that if any formula for granting weightage to the written examination and the interview is directed to be adopted, the same



is applied all across the board.

9. The writ petitions are disposed of in the aforesaid terms.

10. List before the learned Registrar of the learned Tribunal on 29.05.2024.

**(SAURABH BANERJEE)
JUDGE**

**(REKHA PALLI)
JUDGE**

MAY 16, 2024/rr