

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Chapter VIII, Rule 32(2) (b)

Description of case

Civil Writ Petition (Lodging No. 393 of 2003) S/B

Dated of decision: 28th November 2003

For the approval of:

Hon'ble Chief Justice S.H. Kapadia.

Hon'ble Mr. Justice M.M. Ghildiyal.

- Whether the order/judgment should be sent to the reporters for reporting? (yes)
- Whether the reporters be allowed to see the judgment? ()

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IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Civil Writ Petition (Lodging No. 393 of 2003) S/B

Dr. Ranvir Singh,
S/o Sri Ram Janma Singh,
R/o 1/7 Phool Bagh, Pant Nager,
District Udham Singh Nagar. Petitioner

Versus

State of Uttaranchal,
Through the Chief Secretary,
Government of Uttaranchal,
Dehradun & others Respondents

Mr. B.D. Upadhayaya, Advocate for the petitioner.
Mr. K.P. Upadhayaya, learned Standing Counsel for the State.
Mr. Rajendra Dhobal, learned Advocate for respondent No. 2 & 3.

**Coram: Hon'ble S.H. Kapadia, C.J.
 Hon'ble M.M. Ghildiyal, J.**

Date: 28th November, 2003

ORAL JUDGMENT: [Per Hon'ble S.H. Kapadia,C.J.]

1. By this writ petition, Dr. Ranvir Singh, petitioner seeks a writ in the nature of Mandamus against respondent No. 2 – Vice Chancellor, G.B. Pant University of Agriculture and Technology, District Udham Singh Nagar to continue the petitioner as Dean, College of Agriculture till he completes 5 years from the date of his joining the post of Dean or till the age of 62 years, whichever is earlier.

2. **FACTS:**

On 13th November 2001 petitioner was appointed as a Dean by respondent No. 2 in the pay scale of Rs. 16,400 – 22,400 plus allowances. The order was passed by respondent No. 2. In terms of the said order, petitioner was informed that he is appointed as a Dean for 5 years from the date of joining or till the age of his retirement, whichever is earlier. Petitioner was born on 9th October 1943. According to the Statues framed under U.P. Krishi Evam Prodyogik

Vishwas Vidyalaya Adhinyam, 1958 the age of retirement of a Teacher is 58 years or 60 years in accordance with option exercised by him. The petitioner opted to retire at the age of 60. According to this option, he attained the age of 60 on 31st October 2003. Under para 6(iv) of Chapter XXV of the Statute of the University, if the date of superannuation of a teacher does not fall on June 30, the teacher shall continue in service till the end of academic session that is June 30 following and will be treated on re-employment from the date of superannuation till June 30 following. The object of para 6(iv) is to protect the students, whose studies should not be interrupted during the academic year. In terms of para 6(iv), petitioner was re-deployed as a teacher. He was asked to hand-over the charge of the Dean to Dr. Basudev Singh on 31st October 2003. Petitioner was re-deployed as a teacher up to 30th June 2004.

3. **ARGUMENTS:**

It is the case of the petitioner that he should have been re-deployed as a Dean and not as a Teacher after 31st October 2003. That the University erred in asking him to hand-over the charge to Dr. Basudev Singh. It was argued on behalf of the petitioner that the Board of Management, in its meeting held on 9th April 2001, had suggested an amendment to the Statute under which the teacher, continuing after attaining the age of superannuation till the end of the academic session, should not be treated on re-employment and the teacher shall enjoy the same status and benefits as before. However, it is conceded that the matter is pending consideration before the Chancellor. In the petition, it is further alleged that on 31st October 2003, Government of India, Ministry of Agriculture, New Delhi, has issued an order increasing the age of retirement of teachers of State Agriculture University, Imphal, from 60 to 62 years and consequently, it was argued that the petitioner should have been allowed to continue as a Dean till he attains the age of 62 or till he completes 5 years from the date of his joining on 13th November 2001, whichever is earlier. It was further argued on behalf of the petitioner that the Dean

is a teacher. That the definition of the word “Teacher” includes Dean and therefore, on attaining the age of retirement of 60 years on 31st October 2003, petitioner should have been re-deployed as a Dean and not as a Teacher. In this connection, reliance was placed on the provisions of U.P. Krishi Evam Prodhogik Vishwas Vidyalaya Adhiniyam, 1958 and the Statutes framed there under. Reliance was also placed on the judgment of the Supreme Court in the case of P.S. Ramamohana Rao V/s Andhra Pradesh Agricultural University (A.I.R. 1997 Supreme Court 3433).

4. **FINDINGS:**

We do not find any merit in this writ petition. The object of paragraph 6(iv) of Chapter XXV of the Statutes of the University is not to disrupt the education of the students. With that object in mind, para 6(iv) of Chapter XXV provides that if the date of superannuation of a teacher does not fall on June 30 (i.e. at the end of the academic year), then the teacher shall be re-deployed from the date of superannuation till June 30, following. In the present case, petitioner was appointed as a Dean on 13th November 2001. In the letter of appointment, he was told that his term of appointment will be for 5 years from the date of joining or till the date of his retirement, whichever is earlier. On 31st October 2003, petitioner retired at the age of 60. He was re-deployed as a teacher till 30th June 2004. On his retirement as a Dean, he was re-deployed as a Teacher so that the students’ study is not disrupted. In fact he is conducting research after 31st October 2003. The recommendation of the Board of Management on question of re-deployment is pending before the Chancellor till date. It has not been approved. Therefore, the recommendation of the Board cannot be given effect to by us in this writ petition. The recommendations of the Central Government regarding increase in age of retirement would required amendment of the Statutes. Till date there is no change in the Act, 1958 or in the Statutes increasing the age of retirement to 62 years. Therefore, there is no merit in the argument advanced on behalf of the petitioner that the petitioner

should be continued up to 62 years. Lastly, in this case, we are concerned with Rule 6(iv) of Chapter XXV of the Statutes framed under the said Act 1958. Rule 6 deals with age of retirement. Chapter XXV deals with qualifications, emoluments and conditions of service of teachers. Chapter XXV deals with emoluments of Professors, Associate Professors, Assistant Professors etc. Chapter XXV does not deal with conditions of service of a Dean. On the other hand, Chapter VII of the Statute deals with the powers and functions of the Dean. Under Chapter VII the Dean is the Chief Executive Officer of the Faculty responsible to the Vice Chancellor for its administration. The Dean is responsible for organization and conduct of teaching, research and extension works. The dean is responsible for due observance of Statutes. The Dean presides over the meeting of the Board of Faculty. The Dean reports to the Vice Chancellor. He supervises the registration and progress of the students in the college. He grants casual leave to the teachers of the faculty. All these duties and functions are enumerated in Chapter VII of the Statutes. Therefore, there is a clear demarcation between a Teacher and a Dean under the Statutes. Under section 17(4) of the Act, 1958, each Faculty has a Dean. He is the Chairman of the Board of Faculty responsible for organization and conduct of teaching, research and extension works of the departments in the faculty. Therefore, the post of Dean cannot be equated to the post of a Teacher for the purposes of Rule 6(iv) of Chapter XXV of the Statutes. Even on facts, one can see this dichotomy. Rule 6(iv) provides for the age of retirement of 58 years or 60 years as per the option exercised by the Teacher. In this case, petitioner opted for the age of retirement at 60, which fell on 31st October 2003. There is a proviso to Rule 6(iv) under which if the date of superannuation of the teacher does not fall on June 30, the teacher shall continue in service till the end of the academic session. As stated above, Rule 6(iv) falls in Chapter XXV, which deals only with teachers. That Chapter does not touch upon conditions of service of a Dean. The letter dated 13th November 2001 by which petitioner was appointed as a Dean does not provide for re-deployment as a Dean.

That letter dated 13th November 2001 specifically states that the petitioner is appointed as a Dean for 5 years from the date of his joining or till the date of his retirement, whichever is earlier. Therefore, even on facts, there is a clear demarcation between a teacher and a Dean. The judgment of the Supreme Court in the case of P.S. Ramamohana Rao V/s Andhra Pradesh Agricultural University (supra) has no application to the facts of the case. In that matter, on facts, the Court found that Director of Physical Education in the University arranged games and sports for the students. He procured sports material for the students. He looks after the maintenance of ground. He arranged Inter-College Tournaments. Therefore, it was held by the Apex Court that the Director of Physical Education in the University was a teacher. In the present case, as discussed above, the functions of the Dean and the responsibilities of the Dean are administrative in nature. He is the Chairman of the Board of Faculty. He is responsible for observance of the Statutes and regulations relating to the Faculty. He is the authority to sanction casual leave to the teachers of the Faculty. His role is supervisory in nature. He is answerable to the Vice Chancellor. Therefore, the judgment of the Supreme Court, referred to above, has no application to the facts of this case.

ORDER

Accordingly, writ petition is rejected. No order as to costs.

(M.M. Ghildiyal, J.)

(S.H. Kapadia, C.J.)

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