

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/B) No. 140 of 2010

Dr. Manjula Bisht.

..... Petitioner

Versus

State of Uttarakhand & others.

..... Respondents

Mr. Sanjay Bhatt, Advocate for the petitioner.

Mr. K.P. Upadhyaya, Addl. Chief Standing Counsel for the State / respondent No. 1.

Mr. B.D. Upadhyaya, Senior Advocate for respondent Nos. 2 to 4.

JUDGMENT

Coram: Hon'ble Barin Ghosh, C.J.

Hon'ble U.C. Dhyani, J.

BARIN GHOSH, C. J. (Oral)

Prior to 8th July, 2003, it was not required for a Reader, seeking to be promoted to the post of Professor, to have research publications made while working as Reader. With effect from 8th July, 2003, the University Grants Commission made it a requirement that research publications of a Reader, seeking promotion to the post of Professor, should be made while the Reader is still a Reader.

2. Petitioner became a Reader on 15th March, 1994 w.e.f. 1st July, 1991. She acquired all other requisites to be promoted to the post of Professor in the year 1998. Her case for promotion to the post of Professor was, however, considered after 8th July, 2003. In accordance with the Rules for according promotion to the post of Professor under the Career Advancement Scheme, it was obligatory on the part of the petitioner to submit her research publications, five in number. She submitted five of her best research publications while seeking promotion to the post of Professor. None of them was, however, published while the petitioner was working as a Reader. According to the Rules in vogue since 8th July, 2003, those research publications could not be treated as research publications, which was one of the requirements for being promoted. There was a confusion whether the Rules prior to 8th July, 2003 will apply to the case of the petitioner inasmuch as she became eligible for being promoted to the post of Professor in the year 1998. The

Executive Council of the University felt that the Rules prior to 8th July, 2003 will apply to her. The Chancellor also accepted the said view. In the circumstances, petitioner was given promotion to the post of Professor on 26th July, 2008 with a rider that the said promotion is subject to the approval by University Grants Commission. The entire case of the petitioner, including the views of the Executive Council and of the Chancellor, were then sent to the University Grants Commission. University Grants Commission refused to accede to the contention that the old Rules apply to the petitioner and, accordingly, she could be promoted on the basis of research publications made while she was a Lecturer and not while she was a Reader. In the circumstances, University has cancelled the promotion of the petitioner.

3. In the present writ petition, petitioner is contending that, in 1998, petitioner became eligible for being promoted to the post of Professor and, accordingly, acquired right to be promoted on the basis of the Rules then in vogue. There is no dispute that, after becoming eligible in 1998, petitioner acquired a right to be considered for promotion. In the event, petitioner's case for promotion had been considered before 8th July, 2003, the case of the petitioner could only be considered on the basis of the Rules then in vogue. On 8th July, 2003, the Rules stood altered, by which, a new imposition was inserted to the effect that a Reader, seeking promotion, must have research publications while he was a Reader. When the case of the petitioner was considered, the said Rule was in vogue. The case of the petitioner could only be considered on the basis of the said altered Rule by which a new imposition was inserted.

4. It is also the contention of the petitioner that others similarly situated to that of the petitioner were promoted in 2006. Their matters were not referred to the University Grants Commission and, accordingly, there has been dissimilar treatment of similar people for no just reason. That may be so, but one wrong cannot be taken as a principle to repeat wrongs.

5. We, accordingly, find no merit in the writ petition and the same is dismissed.

(U.C. Dhyani, J.)
31.10.2011

(Barin Ghosh, C. J.)
31.10.2011

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