

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.14985 of 2016
Date of Decision: 31.10.2017**

Anu Chetal & anr. ... Petitioners
Versus

Guru Jambeshwar University of Science & Technology, Hissar & anr. ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Amit Jaiswal, Advocate,
for the petitioners.

Mr. Vivek Chauhan, Advocate,
for respondents No.1 and 2.

Mr. Salil Sabhlok, Advocate,
for respondent No.3.

RAKESH KUMAR JAIN, J.(ORAL)

The petitioners have challenged the order dated 05.05.2014 passed by the UGC vide which the amount of fellowship granted to the petitioners has been denied.

In brief, the petitioners were selected and appointed as Research fellows for the year 2011-12 as per the letter dated 29.3.2013 in the department of Environment Science and Engineering, Guru Jambeshwar University of Science and Technology, Hisar, in compliance to the letter dated 10.01.2012 issued by the University Grants Commission (for short 'UGC'). The petitioners submitted their joining reports on 31.3.2013 and 14.3.2013 respectively to the chairman of the respondent-department. Thereafter, the department of the petitioners wrote a letter dated 29.03.2013 to the UGC seeking the release of grant at the earliest. However, the UGC

rejected the grant by the impugned order dated 5.5.2014 informing the Registrar of the University that the Empowered Committee in its meeting held on 31.3.2014 has not accepted the request of the five fellows of their department for the year 2011-12 as the selection was not done by the University within the period of one year. Apropos, the University wrote a letter dated 6.05.2014 to the UGC for seeking condonation of delay in the matter of selection and appointment and for the disbursement of the UGC-BSR Research Fellowships to the fellows like the petitioners in the Sciences, Bio-Sciences, Agricultural Sciences, Medical Sciences and & Engineering Sciences for the year 2011-12. However, the UGC did not give any reply and thus, the petitioners have approached this Court by the present petition.

The UGC has taken a stand that it used to release UGC fellowship under the scheme of UGC-BSR Research Fellowship in Sciences, Bio-Sciences, Agricultural Sciences, Medical Sciences and Engineering Sciences to promote quality research in University/ Departments. For the year 2011-12 UGC released 5 fellowships to the University vide letter dated 10.01.2012. It is further the stand of the UGC that Empowered Committee in its meeting held on 21.06.2013 took a policy decision relating to the disbursal of the scholarship/fellowship, *inter alia*, to the effect:-

- (i) The allocation of Research Fellowships approved by UGC, should be availed within one year from the date of issue of approval letter of fellowship under RFSMS
- (ii) No carry forward to be allowed beyond one year from the date of issue of allocation letter of fellowship under RFSMS.

Learned counsel for UGC has also referred to the minutes recorded at item No.10(ii) by the Empowered Committee, wherein it has discussed that the allocation for five fellowships was granted on 10.1.2012. The Selection Committee meeting was held on 4.03.2013. The University sent the report of the Selection Committee and the name of the fellows on 30.01.2014 and since the selection was not made within one year, therefore, it rejected the request of the University for grant of fellowship/scholarship. At the same time, it is not denied by the counsel for the UGC that the criteria for the UGC-BSR (RFSMS) was laid down in the 58th meeting held on 21.06.2013 in the office of UGC, New Delhi, in which it was decided that the research fellowship approved by the UGC has to be allocated/availed within a period of one year from the date of issue of approval letter of fellowship and no carry forward would be allowed beyond one year from the date of issue of allocation letter. Learned counsel for UGC has been fair enough with the Court and not denied the fact that in letter dated 10.01.2012, which is on record as R-3/1, no such condition was imposed of one year. However, he has vehemently argued that in the letter Annexure P-3 dated 6.5.2014, the University has itself mentioned that the condition to fill the fellowship positions was one year from the date of issue of letter and thus, it was within their knowledge and therefore, the selection made by the University after the period of one year from the date of allocation is the fault of the University and UGC is not liable.

In this regard, learned counsel for the petitioner has submitted that letter dated 6.5.2014 is the aftermath of letter dated 5.5.2014 of the UGC vide which they had rejected the request of the petitioners/University for grant of scholarship/fellowship on the ground that the period of one year

had expired for the selection restricted for one year, otherwise there is no reference of the period of one year in the letter dated 10.1.2012. It is sufficient to prove that the University was not having the knowledge that the selection has to be made within period of one year, otherwise, the UGC would not release the amount. It is also submitted that when the selection was made in the month of March, 2013, there was no such criteria of one year and no carry forward at the instance of UGC. The said criteria was set up by the UGC in its 58th meeting which was held on 21.06.2013 i.e. much after the selection was made. It is, thus, submitted that the criteria adopted by the UGC is prospective in nature and would not apply to the selection of the petitioners prior thereto.

I have heard learned counsel for the parties and perused the record with their assistance.

The question in this case is as to whether the criteria laid down by the UGC on 21.6.2013 for availing such fellowships within a period of one year from the date of issue of letter of approval would apply to the case of the petitioners who were selected and appointed much prior thereto?

In order to answer this question, reference has to be had to the letter dated 10.01.2012 vide which the scholarship/fellowship was awarded to 5 fellows of the University and in that letter, there was no such condition laid down by the UGC that the selection and appointment should be made within a period of one year from the date of issue of letter of allocation. Thus, it can be presumed that the University was not aware of it as the said criteria was laid down by the Empowered Committee in its 58th meeting held on 21.06.2013, after the selection was made and appointments were given, but it appears that the University on its own made the request on 06.05.2014

to UGC for condonation of that period of delay, otherwise the University was not supposed to ask for condonation because the condition of one year was not applicable to the selection made by the University in the month of March 2013 i.e. much prior to the issuance of the guidelines of the year 2013. Thus, in my opinion, the conditions, which have been laid down, would operate prospectively and would not operate retrospectively in so far as the case in hand is concerned as the said criteria has not specifically made to operate retrospectively. No other argument has been raised. Thus, in view of these facts and circumstances, the present petition is allowed and the impugned order dated 05.05.2014 is set aside. Respondent No.3-UGC is directed to release the amount to the University within a period of one month from the date of receipt of certified copy of this order.

31.10.2017

monika

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No