

# SUPREME COURT OF INDIA

Chandgi Ram

Vs.

University Of Rajasthan

(A.P. Mishra and Ruma Pal JJ.)

01.12.2000

## ORDER

1. Leave granted.

2. The appellant has sought for a direction for his continuance in the post of Director, Students' Advisory Bureau and the post of Programme Officer. The case of the appellant is that he has been appointed under Section 3(3) of the University Teachers and Officers (Selection for Appointment) Act, 1974 initially for a period of three months. The said appointment was extended on 10.2.97 for a further period of six months. Thereafter on 5.3.97 he was also appointed on ad hoc basis under Section 3(3) of the said Act as Programme Officer in the Department of Adult Education for a period of 90 days only. However, on 6.6.97 the respondent terminated the services of the appellant on the said posts on the ground that his continuance on the same post was contrary to the law and further his period of appointment has already expired. In other words, the submission on behalf of the University is that this appointment was on ad hoc basis which could only be for a short period. The vacancy on the aforesaid post, as per submission for the appellant is since 1995 and till regular appointment is made he should be permitted to work. Submission is, his appointment cannot be said to be illegal as it was made under Section 3(3) of the said Act. It seems, during pendency of this matter before the High Court, the University authorities initiated proceedings to fill up this post by advertising for its selection. The High Court in appeal in this regard made the following observations:

Since we have been informed that the recruitment process for appointment of regularly selected candidate as against sanctioned post is currently going on, the impugned order dated 7.5.98 passed by the learned single Judge is modified to the extent that the appellant shall be eligible to participate in the selection process along with other eligible candidates, who have applied for such posts, which they were holding as on the date of their termination and if they are declared successful in pursuance of the recommendations of the Selection Committee, they may be appointed by the University of Rajasthan.

3. We may point out here, the writ petition filed by the appellant, challenging his termination was dismissed, holding that the appointment was made without there being a sanctioned post.

4. The appellant aggrieved by this order passed by the High Court, preferred the present appeals.

5. Earlier when the matter was taken up, this Court desired to know the shortest period within which

the University could fill up these posts through regular selection. This was because this process of selection seems to have taken too long, still without any definite date being fixed for the selection. This is recorded in our order dated 31.3.2000. We adjourned this case for the learned Counsel for the University to find this. Learned Counsel for the University, Mr. Manoj Swarup on 7.4.2000 stated that for selection on these posts, advertisement has already taken place and the process of selection would be concluded by the end of June 2000. In view of this, we deferred the hearing of this matter and directed it to be listed in July, 2000. On 21st of July, 2000 Counsel for the University sought further time to find out the latest position in this regard. When the matter was taken up on 25.8.2000, learned Counsel for the University placed a different picture by stating that the selection could only take place after prior sanction from the State Government. On the same day notice was issued by this Court to the State Government to expedite the matter. Thereafter on 5.9.2000 even though notice was issued earlier, as aforesaid, one week's time was granted to the appellant to make formal application for its impleadment. The matter was adjourned with the direction by this Court for the service of notice on the standing Counsel for the State of Rajasthan. He was served on 21.10.2000.

6. The matter is taken up today. Learned Counsel for the State of Rajasthan states that he has not received any instructions so far.

7. However, after hearing learned Counsel for the parties, we do not feel it appropriate on the facts of this case to await any response from the State Government. We heard learned Counsel for the parties at length. We find such problems, as in the present case, arises quite often when delay is made in making the regular selection. If the authorities fill up these vacancies at the earliest, this culture of ad hocism cannot develop. This deteriorates the fibre of the institution effecting the very foundation of our culture specially when it is in the educational field. Even Section 3(3) of the Act does permit ad hoc appointment but only for a short period, not to continue for years. Institutions not filling vacancies for a long time develop the culture of ad hocism. Some time not filling is for a coloured purpose to favour one or the other. This has to be denounced. This not only permits irregular appointees to continue for long but thwarts the coming of regular, competent appointees, deteriorating the very standard of the institution. This brings in internal struggle to appoint or continue one or other ad hoc appointees leading to inter se contest in courts, as in the present case, taking a large cake of time in the courts. However, aforesaid facts reveal that the post for which there is a contest, has already been advertised for being filled as far back in the year 1998, yet the process did not progress further. It is now not in dispute that this post is a sanctioned post for which the University has already issued the aforesaid advertisement. The only difficulty felt by the University though belated, is the Memorandum of Understanding [MOU] issued by the State Government to the University of Rajasthan which is annexed along with the affidavit of one Rajendra Babu Srivastava, Asstt. Registrar (Estt. II) University of Rajasthan. The submission is, under it the University of Rajasthan can neither create any new post nor fill up any vacant post without obtaining permission of the Government of Rajasthan. The short question for our consideration is, whether on the facts and circumstances of this case could this MOU be an obstacle in the way of the University to fill up the aforesaid vacant post. We do not find this to be any obstacle in the way of the University. We firstly want to record, the University created all this situation by not filling up vacant posts for a long number of years and now taking its defence under the garb of this MOU. We find this stand of MOU is taken now before this Court as no such stand was taken earlier before the High Court. Even this MOU is annexed without any date with an affidavit without stating when and how this MOU was communicated to the University. It is however not disputed, this MOU, if exists, was born after the aforesaid advertisement for filling up

the posts. Without going into the merit of this MOU on admitted facts when the process of filling up of the vacancies started long before this MOU was born, this MOU could not be any impediment to fill up these posts.

8. Accordingly, we direct the University to hold the interview for the posts already advertised in accordance with law by fixing the date of interview, but we make it clear that the date should be so fixed that Selection Committee completes its interview by or before 31.1.2001. The Selection Committee shall meet on such date/dates fixed and will send its recommendations, the process of which, is to be concluded by or before the end of February, 2001 and appointment be made within four weeks of such recommendation received by the University. We make it clear that the appellant will be entitled to participate in this selection process.

9. We also make it clear that apart from the candidates who are entitled to participate in this selection in pursuance to the said earlier advertisement, a fresh advertisement in accordance with rule, if any, be also made by the University within three weeks from today, entitling fresh candidates also to apply for the same. During this interregnum, the University will take expeditiously all proceedings for the due Constitution of the Selection Committee including obtaining nominations from the State Government, if any required. Since the State Government has already been served in this matter, we direct the State Government to nominate one, if any required for the Constitution of the Selection Committee, so that no delay is caused in making selection within the aforesaid time table. We would not have given this time table to expedite the selection but for the inordinate delay caused by the University in making this selection. We deprecate this culture of ad hocism and hope in future it is only used for a stop gap arrangement i.e. for a short period.

10. With the above observations and directions, these appeals are disposed of. There shall be no order as to costs.