

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).2320/2014
(From the judgment and order dated 04/12/2013 in Writ Petition
No. 787 of 2013 of the High Court of Manipur at Imphal)

R.K YAISKUL SINGH & ORS Petitioner(s)
VERSUS
THE MANIPUR PUBLIC SERVICE COMM. & ORS Respondent(s)
(With prayer for interim relief and office report)
[FOR FINAL DISPOSAL]

Date: 22/04/2014 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR
HON'BLE MR. JUSTICE A.K. SIKRI

For Petitioner(s) Mr. P.S. Narasimha, Sr. Adv.
Mr. L. Roshmani, Adv.
Mr. Kalyan Arambam, Adv.
Mr. Sudakshina Rathor, Adv.
Mr. Somiran Sharma, AOR.

For Respondent(s) Mr. U. Hazarika, Sr. Adv.
Mr. Sapam Biswajit Meitei, Adv.
Mr. Ashok Kumar Singh, AOR.
Mr. Shantanu Singh, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the
signed order.

(VINOD LAKHINA)
COURT MASTER

(INDU BALA KAPUR)
COURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE)
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4838 OF 2014
[Arising out of Special Leave Petition (Civil)
No.2320 of 2014]

R.K YAISKUL SINGH & ORS. ...APPELLANTS

VERSUS

THE MANIPUR PUBLIC SERVICE COMM.
& ORS. ...RESPONDENTS

ORDER

Leave granted.

The appellants had challenged the advertisement dated 27th August, 2013, issued by the Manipur Public Service Commission (for short "MPSC") for making selections for appointment on the post of Principal in Government Colleges as well as Notification dated 29th August, 2013, issued by the MPSC, withdrawing the Advertisement No.2 dated 21st June, 2008 for filling up of 25 posts of Principal in Government Colleges in the State of Manipur.

It was the case of the appellants that considering the academic qualifications, teaching experience and seniority, they were allowed to hold

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the post in different Government Colleges for a number of years. In fact petitioners Nos. 1 to 7, before the High Court, were serving in the Directorate of University and Higher Education, Government of Manipur as In-charge Additional Director and Officer in Special Duty (OSD) respectively, having been transferred from their respective colleges.

The 25 vacancies for the post of Principals, were, in fact, earlier advertised on 13th June, 2005. However, the recruitment process was not completed and subsequently the same vacancies were advertised on 21st June, 2008. Selections on the basis of the aforesaid two advertisements would have been under the University Grants Commission (minimum qualifications required for the

appointment and career Advancement of teachers in Universities and institutions affiliated to it) Regulations, 2000 (hereinafter referred to as "UGC Regulations, 2000).

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Under the UGC Regulations, 2000, according to the appellants, they were having the requisite qualifications. UGS Regulations, 2000 were superseded on 30th June, 2010 by the University Grants Commission (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and other Measures for the Maintenance of Standards in Higher Education) Regulations, 2010 (hereinafter referred to as "UGC Regulations, 2010"). After the publication of these Regulations, according to the appellants, the MPSC issued a fresh advertisement dated 27th August, 2013. In this advertisement, the following qualifications were prescribed:

"ESSENTIAL QUALIFICATION:

- (i) A Master's Degree with at least 55% marks (or equivalent grade in a point scale wherever grading system is followed) by a recognised University.
- (ii) A Ph.D. Degree in concerned/allied/relevant discipline(s) in the institution concerned with evidence of published work and research guidance.
- (iii) Associate Professor with a total experience of 15 (fifteen) years of teaching/research/administration in Universities, Colleges and other Institutions of Higher Education.

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- (iv) A minimum score as stipulated in the Academic Performance Indicator (API) based

Performance Based Appraisal System (PBAS), as set out in Appendix-III of the UGC Regulations, 2010 for direct recruitment of Professors in Colleges which is given below:-

(a) Consolidated API score requirement of 400 (four hundred) points from Category-III of APIs.

(b) Academic Background (20%); Research performance based on API score & quality of publications (40%); Assessment of Domain Knowledge and Teaching Skills (20%) & Interview Performance (20%)."

According to the appellants, qualifications at serial Nos. 1, 2 and 3 remain the same. However, the qualifications at serial No.4 has been added on the basis of the UGC Regulations, 2010. This qualification provides provides for evaluation of the candidate on the criteria mentioned at serial Nos. 1, 2 and 3 as well as 4. Since the API reports of the appellants had not been written, or at least not communicated to them, apprehending that they would be ineligible to be selected, they did not make any application in response to the advertisement. They, however, challenged the advertisement by filing Writ Petition (Civil) No.

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787 of 2013 on the basis that since the vacancies had arisen prior to the UGC Regulations, 2010, they had to be filled in accordance with the earlier UGC Regulations 2000. This submissions was sought to be supported by the law laid down by this Court in the case of Y.V. Rangaiah & Ors. vs. Srieenivasa Rao & Ors. reported in (1983) 3 SCC 284. In the aforesaid judgment, this Court has held that old vacancies have to be filled on the basis of the Rules which existed at the time when the vacancies arose.

Mr. P.S. Narasimha, learned Senior Counsel appearing for the appellants, submits that judgment of the High Court fails to address the issue raised in the writ petition. He also pointed out that the advertisement dated 21st June, 2008 was withdrawn by Notification dated 29th August, 2013. This was done only two days after the fresh advertisement dated 27th August, 2013, just to get over the legal obstacle that would be created under the law laid down by this Court in Y.V. Rangaiah (supra). He reiterates that the appellants are entitled to be

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considered under the UGC Regulations 2000. He also submits that the UGC Regulations, 2010 can only operate prospectively. But the High Court has failed to consider any of these submissions.

Mr. U. Hazarika, learned Senior Counsel appearing for the respondent Nos. 1 and 2, has, however, seriously contended that the ratio laid down by this Court in Y.V. Rangaiah & Ors. vs. Srieenivasa Rao & Ors. reported in (1983) 3 SCC 284 would not be applicable in the facts and circumstances of this case. He submits that firstly, Rules considered in Y.V. Rangaiah were not similar to the present Rules. In any event, the judgment in Y.V. Rangaiah has been subsequently distinguished by this Court in Deepak Agarwal and Another vs. State of Uttar Pradesh and Others, reported in (2011) 6 SCC 725.

Mr. P.S. Narasimha, learned Senior Counsel appearing for the appellants, has submitted that the aforesaid issue, apart from having been

specifically pleaded in the writ petition, was also

argued before the High Court.

However, the High

Court, without adverting to the core issue, has

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dismissed the writ petition with the observation

that since UGC Regulations, 2010 now hold the field, the vacancies would have to be filled in accordance with the aforesaid Regulations.

In our opinion, the issues noticed above having been raised ought to have been decided by the High Court by taking note of the pleadings and relevant law in support of their respective submissions. The substantial issues raised by the

parties, not having been decided by the High Court,

we have no option but to set aside the judgment of

the High Court. The appeal is allowed. The judgment of the High Court is set aside.

The matter is remanded back to the High Court for deciding the writ petition afresh by considering all the submissions made by both the sides. We also make it clear in disposing of the

present appeal that we have not adverted to any of

the issues, raised either by the appellants or by

the respondents, on merits.

The whole controversy

is specifically kept open.

We request the High

Court to decide the writ petition as expeditiously

as possible, preferably within two months.

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Interim order to continue till the High Court dispose of the writ petition.

The appeal is disposed of in the above terms.

No costs.

.....,J.
(SURINDER SINGH NIJJAR)

.....,J.
(A.K. SIKRI)

NEW DELHI
APRIL 22, 2014