

LPA-982 of 2017 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA-982 of 2017 (O&M)

Reserved on 12.10.2022

Pronounced on: 20.10.2022

Yudhvir

...Appellant

Versus

Reena and others

....Respondents

**Coram : HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present : Mr. R.K.Malik, Senior Advocate,
with Mr. Sajjan Singh and Mr. Sunil Hooda, Advocates
for the appellant.

Ms. Palika Monga, DAG, Haryana

Mr. J.S.Dahiya, Advocate,
for respondent Nos. 1 to 3

Mr. Amarjit Singh Virk, Advocate
for respondent No. 6-University

Mr. Amit Rao, Advocate for
Mr. Anurag Goel, Advocate for respondent No. 7

Mr. Salil Sabhlok, Advocate, for respondent No. 5-UGC

JAGMOHAN BANSAL, J.

1. The instant appeal, under clause X of Letters Patent of this Court, is directed against order dated 11.5.2017 passed by learned Single Judge of this Court in CWP No. 4727 of 2013 whereby learned Single Judge has allowed the writ petition and set aside the appointment of appellant/respondent No. 5 therein, who was appointed as Lecturer in Political Science. As appointment of Yudhvir has been set aside by learned

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Single Judge, he has filed present Letters Patent appeal. Yudhvair (appellant herein) was arrayed as respondent No. 5, University Grants Commission (for short "UCG") was arrayed as respondent No. 2 and Kurukshetra University, Kurukshetra (for short "KUK") was arrayed as respondent No. 3 before the writ Court. The writ petition was filed by Reena daughter of Sh. Azad Singh, Ramesh Kumar son of Sh. Hawa Singh and Vinod Kumar son of Sh. Jaipal. All the petitioners have been arrayed as respondents in the present appeal. Reena is the main contesting respondent and she has been arrayed as respondent No. 1 (for short "Respondent"). The UGC has been arrayed as respondent No. 5 and KUK as respondent No. 6.

Brief facts:

2. The brief facts, which are necessary to have a hang over the issue involved, are that KUK vide advertisement dated 11.7.2012 (Annexure P-1) invited applications for different posts of teaching and non-teaching staff on regular basis. Assistant Professor in Political Science was one of posts of teaching staff. The qualification prescribed for the said post was as follows:-

"1. Good academic record with at least 55% marks at master's degree level in relevant subject or an equivalent grade of B in the 7 points scale with letter grades O, A, B, C, D, E and F. Relaxation in age and marks as per Haryana Govt. Rules for S.C./S.T. Differently-abled Physically handicapped.

2. NET or similar test accredited by the UGC shall remain compulsory. However candidates having Ph.D Degree in the Concerned Subject or enrolled for Ph.D up to 31.05.2009 shall be eligible.

3. Age limits 21 to 40 years."

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The appellant is not having Master's Degree in Political Science, however, he is having Master's Degree in Public Administration. He has also cleared National Eligibility Test (for short "NET") conducted by UGC. The respondent (Reena) is having Master's Degree in Political Science. 15 candidates applied for the post of Lecturer in Political Science. The appellant as well as six other candidates were holding Master's Degree in Public Administration whereas eight candidates were having Master's Degree in Political Science. The Selection Committee in its proceedings held on 19.10.2012 recommended three candidates namely Yudhvir (appellant), Reena (respondent) and Sunita Devi in order of preference. The nominee of Vice Chancellor of KUK in his comments pointed out that candidates at Sr. Nos. 1 and 3 i.e. Yudhvir and Sunita Devi did not possess Master's Degree in the relevant subject i.e. Political Science. Vice Chancellor's nominee further observed that letter of Haryana Government dated 9.10.2012 supplied to him does not clarify whether Master's Degree in the relevant subject is equal to Public Administration and this fact should be got clarified from the authority concerned before clearing the case. In spite of reservation expressed by nominee of Vice Chancellor, the official respondent issued appointment letter dated 22.10.2012 (Annexure P-4) to Yudhvir (appellant). In the appointment letter it was pointed out that candidate may join duty immediately but not later than 15.11.2012.

3. The respondent and other candidates feeling aggrieved from appointment of appellant as Lecturer in Political Science in spite of the fact that he was not holding Master's Degree in Political Science, preferred CWP No. 4727 of 2013 before this Court which came up for consideration before

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learned Single Judge who vide the impugned order dated 11.5.2017 set aside appointment letter dated 22.10.2012 issued to appellant Yudhvir. Learned Single Judge further directed selection/appointing authority to consider petitioners' name in accordance with rules if they fulfill requisite qualification for the post of Assistant Professor in Political Science.

Contention of the appellant

4. Learned counsel for the appellant contended that learned Single Judge has wrongly relied upon UGC communication wherein UGC has clarified that Master's Degree courses are offered separately in Political Science and Public Administration by Indian Universities, hence, candidates having Master's Degree in Political Science were advised to appear in NET in the subject of Political Science. Similarly candidates having Master's Degree in Public Administration were advised to appear in NET in Public Administration. The UGC had also issued communication qua eligibility to appear in NET. There is no dispute that a candidate having Master's Degree in Public Administration is supposed to appear in Political Science in NET. However, communication of UGC is not relevant while determining the question of eligibility for appointment of Lecturer in Political Science. A two judge Bench of the Hon'ble Supreme Court in **Rajbir Singh Dalal vs. Chaudhari Devi Lal University, Sirsa and another (2008) 9 SCC 284** has held that Master's Degree in Political Science and Master's Degree in Public Administration are inter-changeable. The judgment of Hon'ble Supreme Court was based upon letter dated 5.3.1992 written by UGC to the Registrar, M.D. University, Rohtak. Relying upon judgment of the Hon'ble Supreme Court, a Single Judge Bench of this Court in CWP No. 13816 of

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2017 decided on 2.8.2018, a Single Judge Bench of Orissa High Court in W.P.(C)No. 12947 of 2010 decided on 25.4.2019, a Single Judge Bench of Manipur High Court in WP(C)No. 841 of 2017 decided on 17.9.2018 and a Division Bench of Uttrakhand High Court in Writ Petition (S/B) No. 67 of 2020 decided on 13.5.2021, have held that a candidate having Master's Degree in Public Administration is eligible to be considered for the post of Lecturer in Political Science.

Learned counsel further contended that there are various communications in the form of clarification issued by UGC, KUK, MD University, Rohtak CDLU, Sirsa as well as State Government which are categorical on the subject. Thus, matter stands settled beyond iota of doubt still learned Single Judge has wrongly relied upon a clarification of UGC which is not even remotely connected with the issue involved.

Contention of the respondent (Reena)

5. Learned counsel for respondent supporting findings of learned Single Judge pointed that judgment of the Hon'ble Supreme Court in **Rajbir Singh Dalal (supra)** is founded upon fraud committed by petitioners therein. There was connivance between University and candidates and accordingly forged documents in the form of communication dated 5.3.1992 was placed before the Hon'ble Supreme Court which passed judgment relying upon the aforesaid communication. The UGC was directed by this court to clarify its position qua letter dated 5.3.1992, however, UGC has filed its affidavit which is nothing more than an eye wash and attempt to mislead this Court. The advertisement was unambiguous and the candidate having Master's Degree in Public Administration cannot be treated at par

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with a candidate having Master's Degree in Political Science. If the intention of University was to treat Master's Degree in Political Science and Public Administration at par, there was nothing which prevented University to clarify in the advertisement that candidates having Master's Degree in Public Administration can also apply like candidates having Master's Degree in Political Science. The University had no authority to change rules midway i.e. after advertisement till the completion of selection process. However, University with intent to favour appellant has ignored the writ petitioners who were holding Master's Degree in Political Science and issued appointment letter in favour of the appellant. The nominee of Vice Chancellor was expert of the subject and he specifically expressed his reservation, still appointment letter was issued to the appellant. The advertisement was just like a piece of delegated legislation and its content especially basic qualification could not be changed by letters or communications or circulars. The essential qualification prescribed in the advertisement was sacrosanct and it could not be changed by way of communication between two authorities. The instructions issued by UGC and relied upon by learned Single Judge are certainly applicable and these instructions were issued after taking note of judgment of Hon'ble Supreme Court in **Rajbir Singh Dalal (supra)**. The UGC while conducting NET assigns different Codes to different subjects and Code No. 2 has been assigned to Political Science and 14 to Public Administration.

In support of his contention, learned counsel for the respondent-writ petitioner has cited judgment of Hon'ble Supreme Court in **Ganapath Singh Gangaram Singh Rajput vs. Gulbarga University**

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represented by its Registrar (2014)3 SCC 767. Learned counsel contended that Hon'ble Supreme court has dismissed appeal with costs of Rs. 50,000/- and facts of present case are identical with the facts of judgment of Hon'ble the Supreme Court in **Ganapath Singh Gangaram Singh Rajput (supra)** in which post advertised was of Lecturer in MCA whereas appellatant was having Master's Degree in Mathematics. In paragraph 17, the Hon'ble Supreme Court has held that in **Rajbir Singh Dalal (supra)**, this court did not say that Political Science is the relevant subject for appointment as Lecturer in Public Administration.

Contention of UGC

6. Learned counsel for UGC would contend that appointment in question was made in 2012 and at that point of time, UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010 (for short "2010 Regulations") were in vogue. Thus, present case is covered by 2010 Regulations. In Regulation 4.0, the qualification for the post of Assistant Professor has been prescribed. The learned Single Judge has relied upon communication of UGC which is confined to eligibility to appear in NET. The eligibility prescribed for NET cannot be considered for the appointment of a Lecturer. UGC has repeatedly opined that it is prerogative of the University to prescribe relevant subject for the post of a Lecturer. UGC has prescribed minimum qualification under Regulation 4.4 and as soon as a person fulfills minimum qualification prescribed under Regulation 4.4, he becomes eligible for the post of Lecturer and it is upto University to consider relevant subject. The

UGC time and again has issued instructions indicating that it is prerogative of the University to consider a candidate for the post of Lecturer in Political Science even though he is holding Master's Degree in Public Administration provided he has already cleared NET. The basic requirement to be eligible for the post of Lecturer is Master's Degree and clearance of NET.

The Regulation 4.4 as cited by learned counsel for UGC is reproduced as below:-

“4.4.0 ASSISTANT PROFESSOR

4.4.1. Arts, Humanities, Sciences, Social Sciences, Commerce, Education, Languages, Law, Journalism and Mass Communication

- i. Good academic record as defined by the concerned university with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) at the Master's Degree level in a relevant subject from an Indian University, or an equivalent degree from an accredited foreign university.*
- ii. Besides fulfilling the above qualifications, the candidate must have cleared the National Eligibility Test (NET) conducted by the UGC, CSIR or similar test accredited by the UGC like SLET/SET.*
- iii. Notwithstanding anything contained in sub-clauses (i) and (ii) to this Clause 4.4.1. candidates, who are, or have been awarded a Ph. D. Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions.*
- iv. NET/SLET/SET shall also not be required for such Masters Programmes in disciplines for which NET/SLET/SET is not conducted.*

4.4.2. MUSIC, PERFORMING ARTS, VISUAL ARTS AND OTHER TRADITIONAL INDIAN ART FORMS LIKE SCULPTURE, ETC.

4.4.2.1. MUSIC AND DANCE DISCIPLINE

1. ASSISTANT PROFESSOR:

- i. Good academic record with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) at the Master's Degree level, in the relevant subject or an equivalent*

degree from an Indian/Foreign University.

ii. Besides fulfilling the above qualifications, candidates must have cleared the National Eligibility Test (NET) for lecturers conducted by the UGC, CSIR, or similar test accredited by the UGC. Notwithstanding anything contained in the sub-clauses (i) and (ii) to this Clause 4.4.2.1, candidates, who are, or have been awarded Ph. D. Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities / Colleges / Institutions.”

7. We have heard learned counsel for the parties and perused the record with their able assistance.

Conclusion and Findings

8. From the conspectus of record and arguments of both sides, we find that following questions arise for our consideration:-

- (i) Whether appellant having Master's Degree in Public Administration can be appointed as Lecturer in Political Science?
- (ii) Whether appointment of appellant amounts to change of rules after publication of advertisement?
- (iii) Whether it would be just and fair to quash appointment of appellant?

9. Before advertizing with the aforesaid questions, it would be appropriate to look into different judgments on issue and communications between different authorities.

9.1 The Hon'ble Supreme Court in **Rajbir Singh Dalal (supra)**

has held:

“31. It may be mentioned that on a clarification sought from the UGC whether a candidate who possesses a Master's degree in Public Administration is eligible for the post of Lecturer in Political Science and vice-versa, the UGC wrote a letter dated 5.3.1992 to the Registrar M.D. University, Rohtak stating that the subject of Political Science and Public Administration are interchangeable and inter-related, and a candidate who possesses Master's degree in Public Administration is eligible as Lecturer in Political Science and vice-versa. Thus, this is the view of the UGC, which is an expert in academic matters, and the Court should not sit in appeal over this opinion and take a contrary view.

32. Learned counsel for the appellant has also pointed out that a large number of universities in this country have a single department for both the subjects of Political Science and Public Administration, and this also demonstrates that the subjects Political Science and Public Administration are inter-changeable and inter-related. Political Science is the mother subject and Public Administration is the offshoot of the same.

33. We agree with Mr. Patwalia, learned counsel, that it is not appropriate for this Court to sit in appeal over the opinion of the experts who are of the view that Political Science and Public Administration are inter-related and inter-changeable subjects, and hence a candidate who possesses Master's degree in Public Administration is eligible for the post of Lecturer in Political Science and vice-versa. We are told that a large number of persons having qualifications in the inter-changeable/inter-related subjects have been appointed Readers/Professors/Lecturers and are continuing as such in various colleges and universities in the State.”

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9.2 Learned Single Judge of this Court in **CWP No. 13816 of 2017** titled as **“Anil and others vs. State of Haryana and others”** has held:-

“This petition is disposed of and the petitioners are being held eligible as per the clarification. Learned counsel for respondents No. 2 and 3 is being directed to declare the result forthwith. It is also clarified that all similarly situated candidates who have applied for the post of Assistant Professors in Political Science having the Masters Degree/ NET/PHD in Public Administration shall be considered eligible.”

9.3 Learned Single Judge of Manipur High Court in **Md. Farid Khan vs. the State of Manipur and another (WP(C)No. 841 of 2017** while dealing with an identical controversy has held:-

“As has been stated hereinabove, the meaning of the expression “in the relevant subject” has not been interpreted by the Hon’ble Supreme Court in the above cases. This expression “in the relevant subject’ appears to have been borrowed from the UGC Regulations as is evident from Dr. Bhanu Prasad Panda case and it further appears to have not been defined in the UGC Regulations, because of which the present controversy or any other similar controversy has arisen. It is the UGC which is the appropriate authority to explain the meaning thereof and in its absence, it is not clear to this court as to why the word “relevant’ is being used as a prefix to the word “subject”. What is the purpose or for that matter, the aim and object of using the word “relevant” is not known to this court. According to the Dictionary, the word “relevant” is synonymous with the word “connection” which is quite different from the word “same” as a result of which many experts in different Universities in the country have given their

different opinions. This sort of controversies in respect of various subjects in different universities will continue to arise, as long as the expression “relevant subject” is not defined by the UGC. In the interest of general public and in order to obviate such controversy, it is the right time for the UGC to do the needful. The expert from Manipur University has opined that the subjects of Political Science and Public Administration are different, while the Choudhary Devi Lal University has treated both the subjects as one discipline. Even in the instant writ petition, it has been alleged that candidates possessing Master degree in Politics and International Relations, have been selected for appointment to the post of Assistant Professor in Political Science. If it is the intention of the UGC that for appointment to the post of Assistant professor in Political Science, one must possess Master degree in the subject of Political Science only, nothing prevented it from using the expression “in the same subject”, rather than the expression “in the relevant subject”. The present controversy has arisen because of this ambiguous expression which remains unexplained by the UGC. In Dr.Bhanu Prasad Panda case, it has been held that Political Science and Public Administration are distinct and separate subjects . The Hon’ble Supreme Court in Rajbir Singh Dalal (Dr) has observed that the decision in Dr. Bhanu Prasad Panda cannot be said to be a precedent for the reason that it was rendered on a concession and no reason was given for it. In Rajbir Singh Dalal (Dr.), the Hon’ble Supreme Court has not interfered with the clarification given by the UGC vide its letter dated 05-03-1992 addressed to the Registrar, M.D University that the subjects of Political Science and Public Administration are interchangeable and interrelated and this court is bound

by it. So far as the issue relating to the subjects of Political Science and Public Administration is concerned, the opinion given by the UGC can be said to be final. Moreover, the Hon'ble Supreme Court in Ganapath Singh Gangaran Singh Rajput case has not overruled the decision in Rajbir Singh Dalal (Dr) case but has distinguished it on facts by observing that the plea taken in Rajbir Singh Dalal (Dr) case was not taken therein. In view of the above, this court is of the view that in the present case, the decision rendered in Rajbir Singh Dalal (Dr) case will have application because of the stand taken by the UGC that the subjects of Political Science and Public Administration are interchangeable and interrelated. No one appears to have questioned it so far. It is indubitably the UGC which has framed the Regulations which are to be followed invariably by all the Universities and the Institutions. There is no material on record to show that the UGC has subsequently changed its stand."

9.4 A Single Bench of Orissa High Court in **Dr. Pratima Sarangi vs. Commissioner-cum-Secretary to Govt. of Orissa, Department of Education, W.P.(C) No.12947 of 2010**, while noticing judgment of Hon'ble Supreme Court in **Rajbir Singh Dalal (supra)** as well as other judgments on the issue has held:-

*" 19. Review Petition (C) No. 59 of 2009 in Civil Appeal No. 4908 of 2008 was filed for review of the judgment passed in **Rajbir Singh Dalal (supra)**, but the same has been dismissed by the apex Court vide order dated 12.02.2009. In that view of the matter, the law laid down by the apex Court in **Rajbir Singh Dalal (supra)** has been confirmed pursuant to dismissal of the review application filed by Dr. Raj Kumar Siwach.*

20. In view of such position, this Court cannot take a

*different view than that of the decision taken by the apex Court in **Rajbir Singh Dalal (supra)** and comes to hold that the subjects or department of Public Administration is interchangeable to department of Political Science. Therefore, candidates having requisite qualification in both the subjects can apply for appointment of Lecturer, Reader and professor of the respective subjects.*

27. *In view of the fact and legal matrix discussed above, this Court is of the considered view that the claim of the petitioner that Public Administration and Political Science are two distinct and separate subjects, cannot sustain in the eye of law in view of law laid down by the apex Court in **Rajbir Singh Dalal (supra)** and as such, the petitioner having participated in the process of selection and having not come out successful, cannot turn around and challenge the same in the present case. Therefore, this Court does not find any merits in the case.”*

9.5 A two Judge Bench of Uttarakhand High Court in **Minakshi Sharma vs. State of Uttarakhand and others Writ Petition (S/B) No. 67 of 2020** has held:-

“8. Admittedly, the petitioner has completed her M.A. in Public Administration. Undoubtedly, according to the UGC guidelines issued on 04.07.2018, a degree of M.A. in Public Administration is equivalent to a degree of M.A. in Political Science. Therefore, according the UGC, the petitioner would be deemed to be equipped with a degree of M.A. in Political Science. Moreover, according to the petitioner, she has already completed her Ph.D. in Political Science. Lastly, according to the result submitted by the Commission before this Court, the petitioner has already qualified the entire examination. Therefore, she has a right to be considered for appointment on the post of Assistant Professor (Political

Science).

9. Hence, this Court directs the respondent no. 3, the Commission, to consider the petitioner's case for the post of Assistant Professor (Political Science), if she is found to be eligible and suitable for the said post."

From the reading of above cited judgments, it is evident that there is no scope for doubt. The findings recorded by Hon'ble Supreme Court as well different High Courts are categorical and there is no reason to form a different opinion. It stands settled that Master's Degree in Public Administration is inter-changeable with Master's Degree in Political Science.

10. Besides enunciation of law by the Hon'ble Supreme Court as well different High Courts, there are various communications between different authorities which need to be considered. Director General Higher Education, Haryana vide letter dated 9.10.2012 (Annexure R/1) has informed Registrar, KUK that State has decided that candidates holding Ph.D/NET in Public Administration be considered for the post of Assistant Professor in Political Science and vice-versa. A similar letter dated 9.3.2012 (Annexure R/2) was communicated to the Secretary, HPSC, Panchkula. The relevant extracts of letter dated 9.10.2012 read as:-

"In the subject matter it is informed that the State Govt. after consideration of Hon'ble Supreme Court of India's Judgment dated 6.8.2008 in the case of Rajbir Singh vs. Chaudhary Devilal University, Sirsa and another, the State Govt. has decided that the candidate holding the Ph.D/NET in Public Administration is to be considered for the post of Asstt. Professor in Political Science and vice-versa."

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M.D. University vide letter dated 14.7.2011 (Annexure R/5) informed the Higher Education Commissioner that M.A. in Public Administration may be considered for the post of Lecturer in Political Science. M.D. University, Rohtak has passed resolution No. 56. The Executive Council's meeting held on 29.3.2019 has resolved that instructions of UGC mentioned in public notice dated 4.7.2018 be adopted in principle. The UGC in its public notice dated 4.7.2018 has clarified that subjects of Political Science and Public Administration can be considered inter-changeable for the purpose of appointment of Assistant Professor.

The Kurukshetra University, Kurukshetra, which in the present case is the appointing authority vide letter dated 19.7.2020 has accepted UGC's public notice dated 4.7.2018.

The Director Higher Education, Haryana vide Memo dated 5.4.2019 communicated public notice dated 4.7.2018 of UGC to all the State Universities as well Private Universities in the State of Haryana.

From the public notice dated 4.7.2018 issued by UGC and letters issued by different Universities as well State Government, it comes out that UGC has accepted that Master's Degree in Political Science and Public Administration are inter-changeable and it is up to the concerned Higher Education Institute to consider candidates with Master's Degree/NET in Political Science for the post of Lecturer in Public Administration and vice versa.

11. The conceded position emerging from record, judgments cited and communications made between different Universities is (i) the Hon'ble Supreme Court has held in **Rajbir Singh Dalal (supra)** that Political

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Science and Public Administration are inter-changeable; (ii) different High Courts have followed judgment of the Hon'ble Supreme court in **Rajbir Singh Dalal (supra)** and held that Political Science and Public Administration are inter-changeable subjects; (iii) MDU vide its communication dated 14.7.2011 has informed the Higher Education Commissioner, Panchkula that Master's Degree in Public Administration may be considered for the post of Lecturer in Political Science; (iv) CLDU, Sirsa, vide communication dated 15.7.2011 has informed Assistant Director Colleges-II that Master's degree in Public Administration may be considered for the post of Lecturer in Political Science (v) Communication by Director General Higher Education, Haryana vide letter dated 9.10.2012 (vi) UGC has issued public notice dated 4.7.2018 wherein it has been declared that candidates with Master's Degree/NET either in Political Science or Public Administration may be considered for faculty position in Political Science as well as Public Administration depending upon the requirement of expertise in the concerned Higher Education Institution; (vii) MDU has resolved to adopt public notice dated 4.7.2018 of UGC; (viii) KUK has ordered to endorse UGC letter dated 4.7.2018; (ix) KUK vide communication dated 26.8.2011 has written to Director General Education, Haryana that UGC is conducting separate NET in Public Administration and Political Science, however, there are letters from M.D. University, Rohtak, CDLU, Sirsa and the decision of Hon'ble Apex Court that Master's Degree in Public Administration may be considered for Lecturer in Political Science and; (x) communications made by MDU and CLDU indicate that their opinion regarding inter-changeability of Political Science and Public

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Administration was same prior to 2012 as well post 2012.

12. In view of the above judgments, Regulations of UGC and communications of different Universities, State Government as well as UGC, we advert to answer the above framed questions.

(i) Whether appellant having Master's Degree in Public Administration can be appointed as Lecturer in Political Science?

12.1 The advertisement in question was issued on 11.7.2012 and Hon'ble Supreme Court delivered its judgment in **Rajbir Singh Dalal (supra)** on 6.8.2008. A review petition was filed before Hon'ble Supreme Court seeking review of its judgment dated 6.8.2008 which came to be dismissed. A curative petition was also filed which also came to be dismissed vide order dated 19.11.2009. Sheet anchor of respondent is that judgment of Hon'ble Supreme Court in **Rajbir Singh Dalal (supra)** is based upon letter dated 5.3.1992 and it is a forged document. A review petition was filed seeking review of aforesaid judgment. Hon'ble Supreme Court not only dismissed the review petition but also the curative petition. Thus, it is not appropriate at least for us to return a finding that letter dated 5.3.1992 is a forged or genuine document.

12.2 There is another aspect of the argument. On an earlier occasion at the instance of respondent-writ petitioner vide order dated 25.2.2019 clarification was sought from UGC which has filed affidavit dated 6.12.2019 wherein it has been disclosed that letters in question pertain to a period of 27 years ago and file is not traceable. In the affidavit, it has been further averred that a committee was constituted to consider whether subjects of Political Science and Public Administration can be considered as inter-changeable for the purpose of appointment of Assistant Professor. The

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Committee held three meetings and in the final meeting dated 15.5.2018, it was resolved that subjects are inter-dependent yet discerningly distinct in nature. The candidates with Master's Degree/NET either in Political Science as well as Public Administration may be considered for faculty position in Political Science as well as Public Administration, depending upon the requirement of expertise in the concerned Higher Education Institution which may be decided by the concerned Institution. The minutes of meeting of the Committee were put up before the Chairman UGC who had approved the same on 17.6.2018. In furtherance of the same, a public notice dated 4.7.2018 has been issued. Thus, in view of stand of the UGC and dismissal of review as well curative petition, we cannot make roving enquiry to find out whether letter dated 5.3.1992 written by UGC to Registrar of M.D. University is a genuine or forged document.

12.3 In view of judgment of Hon'ble Supreme Court in **Rajbir Singh Dalal (supra)** and clarifications issued by UGC as well different Universities, we have no option except to hold that Master's Degree in Public Administration is inter-changeable with Master's Degree in Political Science. It is prerogative of the University to consider degree of Public Administration for the appointment of Lecturer in Political Science. In the case in hand, in the advertisement, it was not clarified whether a candidate having Master's Degree in Public Administration and having cleared NET may apply for the post of Lecturer in Political Science. Thus, there are all possibilities that many candidates possessing requisite qualification may have not applied under the impression that only those candidates who are possessing degree in Political Science can apply. As University has not

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clarified whether candidates having Master's Degree with NET in Public Administration can apply, the appropriate course especially when nominee of the University has expressed reservation was to re-advertise the post and make it clear in the advertisement itself that post of Lecturer in Political Science is inter-changeable with Master's Degree in Public Administration. Nonetheless, the factual position is that there are 15 candidates who applied for the post and 7 out of 15 were having Master's Degree with NET in Public Administration. Therefore, it is difficult to conclude that there was connivance between candidates and University. Thus, contention of learned counsel for the writ petitioner-respondent even though is sustainable to the extent that University was supposed to clarify its position in the advertisement, however, we do not find any prejudice to respondent because she was having Master's degree in Political Science and she participated in the process. Her grouse could be sustainable, had she been holding degree in Public Administration and abstained from participating just because post advertised was of Political Science. 7 candidates having Master's Degree in Public Administration had participated, therefore, it is further difficult to conclude that candidates having Master's Degree in Public Administration were unaware about the fact that whether they can or cannot apply. The appellant is working as Lecturer since 2012 and has already performed his duties for last about 10 years. Thus, at this belated stage, it would neither be in the interest of University nor justice to anyone to set aside the appointment of the appellant. The setting aside of appointment of appellant would not make respondent eligible for appointment because if we hold that advertisement was ambiguous, we would have to set aside the

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advertisement. We cannot direct University to appoint the respondent as has been directed by learned Single Judge.

12.4 The reliance upon judgment of Hon'ble Supreme Court in **Ganapath Singh Gangaram Singh Rajput (supra)** as placed by learned counsel in the present case was placed before different High Courts. In the above cited judgments, the opinion of all the High Courts is identical. The Courts have consistently held that Hon'ble Supreme Court in **Ganapath Singh Gangaram Singh Rajput (supra)** has not overruled its earlier judgment in **Rajbir Singh Dalal (supra)**. Thus, ratio laid down in **Rajbir Singh Dalal (supra)** still holds the field. The High Courts are bound by judgment of the Hon'ble Supreme Court.

Conclusion:

12.5 In view of the above cited judgments, regulations and letters of different authorities, we are of the considered opinion that it was well within domain of appointing authority to appoint appellant as Lecturer in Political Science, though he was holding Master's Degree in Public Administration. The question is answered in favour of the appellant.

Question No. (ii) Whether appointment of appellant amounts to change of rules after publication of advertisement?

Learned counsel for the respondent vehemently contended that appointment of appellant amounts to change of rules of advertisement. In view of the judgment of Hon'ble Supreme Court in **Mohd. Sohrab Khan vs. Aligarh Muslim University and others 2009 (4) SCC 555**, the respondent-university was debarred from making appointment of appellant because as per advertisement, candidates having degree in Political Science were eligible for the post of Lecturer in Political Science. The appointment

of appellant amounts to change of rules and it is settled proposition of law that after advertisement and till the conclusion of selection process, the rules prescribing essential qualification cannot be changed. The selection authority to complete the process of appointment can change rules which do not prejudice anyone. The change in rules must be inevitable. Hon'ble Supreme Court in **Mohd. Sohrab Khan (supra)** held that rules midstream cannot be changed. The Hon'ble Court was dealing with a case where post advertised was Lecturer in Chemistry whereas a person belonging to Industrial Chemistry was appointed. The Court found that the post was meant for candidates having degree in pure Chemistry and candidates having degree in Industrial Chemistry could not be appointed. Findings of Hon'ble Supreme Court read as:-

“19. According to us, the Selection Committee as also the University changed the rule in the midstream which was not permissible. The University can always have a person as a Lecturer in a particular discipline that it desires to have, but the same must be specifically stated in the advertisement itself, so that there is no confusion and all persons who could be intending candidates, should know as to what is the subject which the person is required to teach and what essential qualification the person must possess to be suitable for making application for filling up the said post.

20. We are not disputing the fact that in the matter of selection of candidates, opinion of the Selection Committee should be final, but at the same time, the Selection Committee cannot act arbitrarily and cannot change the criteria/qualification in the selection process during its midstream. Merajuddin Ahmad did not possess a degree in pure Chemistry and therefore, it was rightly held by the High Court that he did not possess the minimum qualification required for filling up the post of

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Lecturer Chemistry, for pure Chemistry and Industrial Chemistry are two different subjects.”

12.6 We are at one with learned counsel for respondent when he contends that the rules after advertisement till completion of selection process cannot be altered. In the case in hand, the Appointing Authority has not altered the rules whereas Appointing Authority has considered and implemented mandate of Hon'ble Supreme Court in Rajbir Singh Dalal (supra) and various instructions issued by Government, UGC and different universities. Thus, it would be hypothetical and contrary to mandate of Hon'ble Supreme Court if it is concluded that the respondent University has altered midway the rules regarding eligibility for the post of Lecturer in Political Science. As observed earlier, there is lapse on the part of respondent University while drafting advertisement because there was nothing which prevented the Appointing Authority to clear that candidates having Master's Degree in Public Administration are equally competent to apply for the post of Lecturer in Political Science. Though, there is lapse on the part of the respondent University, nonetheless, we find ourselves unable to hold and conclude that act of Appointing Authority amounted to change of rules prior to completion of selection process. We are not oblivious of the fact that there were seven candidates out of 15, who were holding Master's Degree in Public Administration. The ratio of candidates having Master's Degree in Public Administration is substantial in comparison to total candidates. Had one out of 15 or in the form of percentage less than 10% candidates having Master's Degree in Public Administration applied, we could think otherwise. However, percentage of candidates having Master's Degree in Public Administration is almost 50%, thus it cannot be held that

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there is prejudice to respondent-Reena. The rules though midway cannot be altered yet if there is no prejudice to a candidate who is one of the aspirants cannot claim that rules have been altered. The respondent was having degree in Political Science and she had participated in the selection process, thus, she cannot claim that rules were altered to her prejudice.

Conclusion:

In view of the above findings, we are of the considered opinion that there was no change in rules after advertisement and prior to completion of selection process. The authorities have simply implemented judgments of Hon'ble Supreme Court as well regulations/instructions of UGC and different instructions issued by State Government as well different universities. Accordingly, question is answered in negative and argument of respondent-Reena is turned down.

Question No.3: Whether it would be just and fair to quash appointment of appellant?

12.7 The appellant was appointed on 22.10.2012 and his appointment was set aside by the learned Single Judge on 11.05.2017. This Court vide interim order dated 02nd June, 2017 stayed implementation of judgment of learned Single Judge. On account of stay granted by a coordinate Bench of this Court, the appellant is still continuing in service. The appellant joined service in 2012 and we are passing through 2022 meaning thereby appellant had already worked for almost 10 years. There is nothing on record to indicate that there was connivance between the appellant and Appointing Authority. The question of arbitrariness and bias was wiped out as soon as 7 candidates having Master's Degree in Public Administration

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applied for the post. Had appellant been sole candidate and Appointing Authority had confirmed his appointment inspite of availability of other candidates having Master's Degree in Political Science coupled with NET, the situation, could be different. The judgment of Hon'ble Supreme Court in **Rajbir Singh Dalal (supra)** and different judgments of different High Courts are holding the field. The UGC by its different communications had already confirmed that Master's Degree in Public Administration is interchangeable with Master's Degree in Political Science. The UGC which is a premier agency and Controlling Authority of all the universities has left to the discretion of Appointing Authority to appoint a candidate having Master's Degree in Public Administration against post of Lecturer of Political Science. MD University, Rohtak, CDLU, Sirsa and State Government are also of the opinion that Public Administration and Political Science are inter-changeable subjects and a candidate having Master's Degree in Public Administration, who fulfills other conditions prescribed by UGC can be appointed for the post of Lecturer in Political Science.

Conclusion

Having regard to length of service and judgments of different High Courts which are based upon judgment of Hon'ble Supreme Court in **Rajbir Singh Dalal (supra)**, we do not deem it appropriate to set aside appointment of appellant at least at this belated stage. Accordingly, question is answered in negative and claim of appellant is upheld.

13. In view of our above findings, we are of the considered opinion that judgment of learned Single Judge cannot be sustained. Accordingly, the instant Letters Patent Appeal is allowed and the impugned judgment dated

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11.05.2017 passed by learned Single Judge of this Court in Writ Petition No.4727 of 2013 is set aside.

Pending miscellaneous application(s), if any, shall stand disposed of.

(G.S.SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

20.10.2022

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes



सत्यमेव जयते

