

(2018) 07 CAT CK 0072

Central Administrative Tribunal Principal Bench, New Delhi

Case No: Original Application No. 3545 Of 2017

Shaheeda Begum Qureshi And
Ors

APPELLANT

Vs

Govt. Of NCT Of Delhi And Ors

RESPONDENT

Date of Decision: July 20, 2018

Acts Referred:

- All India Council For Technical Education Act, 1987 - Section 10(i), 10(v), 23(I)

Hon'ble Judges: V. Ajay Kumar, J; Nita Chowdhury, Member (A)

Bench: Division Bench

Advocate: Ajesh Luthra, Rashmi Chopra, Neetu Mishra, Gyanendra Singh, Sourabh Ahuja

Final Decision: Dismissed

Judgement

V. Ajay Kumar, J

1. The applicants, 30 in number, and working as Lecturers (Selection Grade/Stage 4) in various institutes of technology in the respondents-Department

of Training and Technical Education of the Government of NCTD, filed the OA seeking the following reliefs:-

âœ(i) Quash and set aside the impugned actions/orders/regulations of the respondents placed at Annexure A-1., A/2, A/3 and A/4 respectively or in

the alternate

(ii) Hold and declare that the Lecturers (Selection Grade)/Stage 4 who entered into service prior to 05.03.2010 have been wrongly excluded for

purposes of advancement to Stage-5, i.e., AGP Rs,10,000/-

(iii) Direct the respondents to further consider and place the applicants at Stage 5 of the Career Advancement Scheme, i.e., AGP Rs.10,000/-

irrespective of their not having Ph.D qualification, with effect from the date of completion of the residency service.

(iv) Accord all consequential benefits including arrears.

(v) Award costs of the proceedings.

(vi) Pass any other order/direction which this Honâ€™ble Tribunal deem fit and proper in favour of the applicants and against the respondents in the facts and circumstances of the caseâ€™.

2. It is submitted on behalf of the applicants that all the applicants were appointed as Lecturers during the period 1989 to 1999 and presently they are working as Lecturers (Selection Grade/Stage 4). None of them are possessing any Ph.D qualifications. The private respondents No.4 & 5 who are juniors to the applicant and also working as Lecturers (Selection Grade/Stage 4) but are possessing the Ph.D qualifications.

3. Prescribing higher qualification of Ph.D, for consideration for granting of AGP of Rs.10,000/- to the Lecturers (Selection Grade/Stage-4) is valid, when for appointment as Lecturers itself, possessing Ph.D was not an essential qualification, is the question, fell for consideration in this OA.

4. The 3rd respondent-AICTE issued the All India Council for Technical Education (Pay Scales, Service Conditions and Qualifications for the Teachers and other Academic Staff in Technical Institutions (Diploma) Regulations, 2010] vide Annexure A-7 Notification dated 05.03.2010. The relevant part of Notification is as under:-

â€™ ALL INDIA COUNCIL FOR TECHNICAL EDUCATION

(PAY SCALES, SERVICE CONDITIONS AND QUALIFICATIONS FOR THE TEACHERS AND OTHER ACADEMIC STAFF IN

TECHNICAL INSTITUTIONS (DIPLOMA) REGULATIONS 2010

NOTIFICATION

New Delhi the 5th March, 2010

F.No.37-3/Legal/2010-In exercise of the powers conferred under sub-section (1) of section 23 read with section 10 (i) and (v) of the All India Council

for Technical Education Act, 1987 (52 of 1987) the All India Council for Technical Education makes the following Regulations:-

1. Short Title, Application and Commencement:

1.1 These Regulations may be called the All India Council for Technical Education (Pay Scales, Service Conditions and Qualifications For The

Teachers And Other Academic Staff In Technical Institutions (diploma)) Regulations, 2010.

1.2 They shall apply to technical institutions conducting technical education and such other courses / Programs and areas as notified by the Council

from time to time.

1.3 They shall come into force with effect from the date of their publication in the Official Gazette.

General

(i) There shall be designations in respect of teachers in Polytechnics, namely, Lecturer, Senior Lecturer, and Head of the Department and Workshop

Superintendent.

(ii) The pay of teachers and equivalent positions in Polytechnics shall be fixed according to their designations in two pay bands of Rs. 15600-39100

and Rs. 37400-67000 with appropriate ""Academic Grade Pay"" (AGP in short). Each Pay Band shall have different stages of Academic Grade Pay

which shall ensure that teachers and other equivalent cadres covered under this Scheme, subject to other conditions of eligibility being satisfied have

several opportunities for upward movement during their career.

Revised Pay Scales, Service conditions and Career Advancement Scheme for teachers and equivalent positions:

The pay structure for different categories of teachers and equivalent positions shall be as indicated below:

(a) Lecturer in Polytechnics

XXX XXX XXX

(ix) Lecturers with completed service of 5 years with the AGP of Rs. 7000 shall be eligible, subject to other requirements laid down by the AICTE to

move up to the AGP of Rs. 8000.

(x) Incumbent Lecturers (Selection Grade) who have completed 3 years in the pre-revised pay scale of Rs. 12000-18300 on 1.1.2006 shall be placed

in Pay Band of Rs. 37400-67000 with AGP Pay of Rs. 9000 and shall be continued to be designated as Lecturers (Selection Grade)

(xi) Incumbent Lecturers (Selection Grade) who had not completed three years in the pay scale of Rs. 12000-18300 on 1.1.2006 shall be placed at the

appropriate stage in the Pay Band of Rs. 15600-39100 with AGP of Rs. 8000 till they complete 3 years of service in the grade of Lecturer (Selection

Grade), and thereafter shall be placed in the higher Pay Band of Rs.37400-67000 and accordingly designated as Lecturers (Selection Grade)

(xii) Lecturers (Selection Grade), completing 3 years of teaching with the AGP of Rs. 8000 shall be eligible, subject to other conditions, as may be

prescribed by AICTE, to move to the Pay Band of Rs. 37400-67000 with AGP of Rs. 9000.

(xiii) Posts of HOD shall be in the Pay Band of Rs. 37400-67000, with AGP of Rs.9000. Directly recruited HOD shall be placed in the Pay Band of

Rs. 37400-67000 with an AGP of Rs. 9000, at the appropriate stage in the Pay Band in terms of the conditions of appointment.

(xiv) Head of the Department (HOD), completing 3 years of service in the AGP of Rs. 9000 and possessing a Ph.D. degree in the relevant discipline

shall be eligible, subject to other conditions of academic performance as laid down by the AICTE, shall be placed in Rs.37400-67000 with AGP of Rs.

10000.

(xv) For initial direct recruitment at the level of Lecturers, HOD and Principal, the eligibility conditions in respect of academic and research

requirements shall be as may be or have been prescribed by the AICTE, through Regulations.

(xvi) All advancements to higher grade pays in various cadres will be effected subject to completion of two AICTE approved refresher programs of

not less than two weeks duration each and two one week each TEQIP sponsored programs.

5. Again the 3rd respondent-AICTE vide Annexure A-4 Notification dated 08.11.2012 issued All India Council for Technical Education (Career

Advancement Scheme for the Teachers and Other Academic Staff in Technical Institutions)(Diploma) Regulations, 2012 and the relevant part of the

same reads as under:-

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION

NOTIFICATION

New Delhi, the 8th November, 2012

All India Council for Technical Education (Career Advancement Scheme for the Teachers and other Academic Staff in Technical Institutions)

(Diploma) Regulations, 2012

F. No. 37-3/Legal/AICTE/2012." In exercise of its powers conferred under sub-section (I) of section 23 read with Section 10(i) and (v) of the All

India Council for Technical Education Act, 1987 (52 of 1987), the All India Council for Technical Education makes the following Regulations:

SHORT TITLE, APPLICATION AND COMMENCEMENT

1.1 These Regulations may be called the All India Council for Technical Education (Career Advancement Scheme (CAS) for the Teachers and Other Academic Staff in Technical Institutions) (Degree) Regulations, 2012.

1.2 They shall apply to all technical institutions approved by the AICTE imparting technical education and such other courses/Programs and areas as notified by the AICTE from time to time.

1.3 They shall come into force with effect from the date of their publication in the Official Gazette.

Provided that in the event, any candidate becomes eligible for promotion under Career Advancement Scheme in terms of these Regulations on or after

5th March, 2010, the promotion of such a candidate shall be governed by the provisions of these Regulations.

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STAGES OF PROMOTION UNDER CAREER ADVANCEMENT SCHEME OF INCUMBENT AND NEWLY APPOINTED LECTURER:

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3.8 Lecturer completing three years of teaching in the grade of Rs.7000 (stage 3) shall be eligible, subject to the qualifying conditions and the API

based PBAS requirements prescribed by these Regulations, to move to the Pay Band of Rs.37400-67000 with next higher grade of Rs.8000 (stage 4)

and to be designated as Lecturer (Selection Grade). However those joining the Service after 5th March 2010 shall have also earned Ph. D in addition

to above mentioned requirements to move in the stage 4.

3.9 Lecturer (Senior Scale) completing three years of service in stage 3 and possessing a Ph.D. Degree in the relevant discipline shall be eligible to be

appointed and designated as Lecturer (Selection Grade) and be placed in the next higher grade of Rs.9000 (stage 4) subject to following:

(a) satisfying the required credit points as per API based PBAS requirements as provided in Tables of Appendix 1; and

(b) an assessment by a duly constituted selection committee as suggested for the direct recruitment of Head of Department.

6. The 3rd Respondent-AICTE also notified the "Clarifications on certain issues/anomalies pertaining to Qualifications, Pay Scales, Service

Conditions, Career Advancement Schemes (CAS) etc. for Teachers and other Academic Staff of Technical Institutions (Degree/Diploma), 2016

vide Annexure A-3, and the relevant paras of the same read as under:-

"ALL INDIA COUNCIL FOR TECHNICAL EDUCATION NOTIFICATION

New Delhi, the 4th January 2016

[CLARIFICATIONS ON CERTAIN ISSUES/ ANOMALIES PERTAINING TO QUALIFICATIONS, PAY SCALES, SERVICE

CONDITIONS, CAREER ADVANCEMENT SCHEMES (CAS) etc.

FOR TEACHERS AND OTHER ACADEMIC STAFF OF TECHNICAL INSTITUTIONS (DEGREE/DIPLOMA)]

F. No. 27/RIFD/Pay Scale/01/2013-14."In exercise of the powers conferred under sub-Section (i) of Section 23 read with Section 10 (i) and (v) of

the All India Council for Technical Education Act, 1987 (52 of 1987), the All India Council for Technical Education makes the following Regulations:-

I. Short title, Applications and Commencement:

(a) These Regulations may be called All India Council for Technical Education (clarifications on certain issues/anomalies pertaining to Qualifications,

Pay Scales, Service Conditions, Career Advancement Schemes (CAS) etc. for Teachers and other Academic Staff of Technical Institutions

(Degree/Diploma)), 2016.

(b) These shall apply to technical institutions conducting technical educations and such other courses/ programs and area notified by the Council from time to time.

II. General

AICTE has received several representations seeking clarifications on certain issues arising out of implementation of AICTE Regulations No. 37-3/

Legal/AICTE/2010 dated 05th March 2010 on revised Pay Scales, Service Conditions and Qualifications for the Teachers and other Academic Staff

in Technical Institutions (Degree & Diploma) Regulations, 2010 (here in after referred as AICTE Regulations, 2010) and No. 37-3/

Legal/AICTE/2012 dated 8th Nov. 2012 on Career Advancement Scheme for the Teachers and other Academic Staff in Technical Institutions

(Degree & Diploma) Regulations, 2012 (here in after referred to as AICTE Regulations, 2012). Some of the issues raised from the AICTE previous

Notifications have also been included.

Clarifications on certain issues/ anomalies pertaining to Qualifications, Pay Scales, Service conditions, Career Advancement Schemes (CAS) etc. for

Teachers and Other Academic Staff of Technical Institutions (Degree/Diploma)

The clarifications on certain issues of teachers and equivalent positions are given below:

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CORRIGENDUM IN AICTE REGULATIONS, 2012 (DIPLOMA)

IN RESPECT OF PARA-3 AND TABLE II (A)

3. Stage of Promotion Under Career Advancement Scheme of Incumbent and Newly Appointed Lecturer :

Para- 3 of AICTE Regulations, 2012 (Diploma)

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3.8 Lecturer (Selection Grade) completing three years of teaching in the grade of Rs.8000 (stage 3) shall be eligible subject to the qualifying conditions

and the API based PBAS requirements prescribed by these Regulations, to move to the Pay Band of Rs.37400-67000 with next higher grade of

Rs.9000 (stage 4) and to be re-designated as Lecturer (Selection Grade). However, those joining the Service after 5th March 2010 shall have also

earned Ph. D in addition to above mentioned requirements to move to the stage 4 subject to following.

(a) Satisfying the required credit points as per API based PBAS requirements as provided in Tables of Appendix 1 and

(b) An assessment by a duly constituted Selection Committee as suggested for the direct recruitment of Head of Department.

3.9 Head of the Department (HOD)/Lecturer (Selection Grade), completing 3 years of service in the AGP of Rs. 9000 and possessing a Ph.D

Degree in the relevant discipline shall be eligible, subject to other conditions of academic performance as laid down by the AICTE, shall be placed in

Rs. 37400-67000 with AGP of Rs. 10000 (stage 5)â€.

7. Heard Shri Ajesh Luthra, learned counsel for the applicants, Ms. Rashmi Chopra with Ms. Neetu Mishra, learned counsel for respondents No.1 and

2, Shri Gyanendra Singh for respondent No.3 and Shri Sourabh Ahuja for Respondent No.4 & 5 and perused the pleadings on record.

8. The learned counsel for the applicants submits that possessing the qualification of Ph.D was not a pre-condition for appointment as Lecturer.

Accordingly, the applicants, who fulfil all the eligibility criteria for appointment as Lecturers were selected and appointed as Lecturers during 1989 to

1999. The private respondents No.4 and 5 who were appointed as Lecturers much later to the applicants were also not possessing the Ph.D

qualification at the time of their appointment as Lecturers. However, they acquired the said qualification subsequent to their appointment as Lecturers.

At present, the applicants and the respondents are Lecturers (Selection Grade) in the pay scale of Rs.37400-67000 with Grade Pay of Rs.9000/-. As

per the original Annexure A-7 Notification dated 05.03.2010, the Lecturers (Selection Grade) were not included and entitled for consideration for

granting the AGP of Rs.10,000/-. Only the HODs who completed

3 years of service in the AGP of Rs.9000/- and possessing a Ph.D Degree in the relevant discipline shall only be eligible for the same.

However, the impugned Annexure A-3, i.e., the Clarifications/Notification dated 04.01.2016 under clause 3.9 included the Lecturers (Selection Grade)

also along with the HODs for placement in the AGP of Rs.10,000/- (Stage 5). However, the said clause also prescribes that those Lecturers

(Selection Grade) who are possessing a Ph.D Degree alone are entitled for such a placement. When once the Original Annexure A-7 Notification

does not include the Lecturers (Selection Grade) with or without Ph.D qualification for placement in the AGP of Rs.10,000/- and when the Lecturers

(Selection Grade) were included in the placement of AGP of Rs.10,000/- for the first time by way of impugned Annexure A-3

Clarifications/Notification, exclusion of Lecturers (Selection Grade) who does not possess the Ph.D grade such as applicants, is illegal, arbitrary and

against the Annexure A-7 Notification itself for which the Annexure A-3 is only a clarification. The applicants are having more than 2/3 decades of

service as Lecturers and that the private respondents joined much later to the applicants as Lecturers and hence providing an opportunity to them for

placement in the AGP of Rs.10,000/- and denying the same to the applicants is bad. Further, the private respondents who were also appointed as

Lecturers without possessing the Ph.D qualifications were allowed to pursue the same subsequent to their appointment and whereas the applicants,

though sought for permission to pursue the Ph.D, but were denied the same due to administrative exigencies. Hence, possessing or not possessing of a

Ph.D qualification by a Lecturer is dependent on the administrative exigencies and a fortuitous circumstance. Basing on such a fortuitous

circumstance, classifying the Lecturers (Selection Grade) to those who are possessing Ph.D qualifications and those who does not possess the same is

impermissible and cannot stand the test of reasonable classification. It is further submitted that even as on today, possessing Ph.D qualification is not

an essential qualification for appointment as Lecturers as per the RRs, but the same is only a desirable qualification and hence prescribing the same as

a condition precedent for any benefit/promotion is impermissible. Applicants and private respondents are in the same Stage-4 with AGP of Rs.9000/-

and forms a single homogenous class and classifying the same as those who possess Ph.D and those who are not, is illegal.

9. The learned counsel placed reliance on the following decisions in support of his submissions:-

(i) Constitution Bench decision of the Honâ€™ble Apex Court in Mohammad Shujat Ali and Others Vs. Union of India and Others, AIR 1974 SC

1631.

(ii) Roop Chand Adlakha and Others Vs. Delhi Development Authority and Others, AIR 1989 SC 307.

(iii) Government of Andhra Pradesh and Another Vs. B. Satyanarayana Rao (Dead) by Lrs. and Others of the Honâ€™ble Apex in AIR 2000 SC

1729.

(iv) State of Punjab and Others Vs. the Senior Vocational Staff Masters Association and Others in Civil Appeal No.632/2008 dated 18.08.2017.

(v) W.P. (C) No.15285/2017 dated 22.01.2018 in Carmel Polytechnic College and Another Vs. the Directorate of Technical Education and Others

of the Honâ€™ble High Court of Kerala at Ernakulam.

10. In Mohammad Shujat Ali and Others (supra), the Constitution Bench of the Honâ€™ble Apex Court explained the different principles of

reasonable classification as under:-

â€œ27. But the question is what does this ambiguous and crucial phrase â€œsimilarly situatedâ€ mean? Where are we to look for the test of similarity

of situation which determines the reasonableness of a classification? The inescapable answer is that we must look beyond the classification to the

purpose of the law. A reasonable classification is one which includes all persons or things similarly situated with respect to the purpose of the law.

There should be no discrimination between one person or thing and another, if as regards the subject-matter of the legislation their position is

substantially the same. This is sometimes epigrammatically described by saying that what the constitutional code of equality and equal opportunity

requires is that among equals, the law should be equal and that like should be treated alike. But the basic principle underlying the doctrine is that the

legislature should have the right to classify and impose special burdens upon or grant special benefits to persons or things grouped together under the

classification, so long as the classification is of persons or things similarly situated with respect to the purpose of the legislation, so that all persons or

things similarly situated are treated alike by law. The test which has been evolved for this purpose is-and this test has been consistently applied by this

Court in all decided cases since the commencement of the Constitution-that the classification must be founded on an intelligible differentia which distinguishes certain persons or things that are grouped together from others and that differentia must have a rational relation to the object sought to be achieved by the legislationâ€.

and after considering various decisions it was further observed that â€œbut from these decisions it cannot be laid down as an invariable rule that whenever any classification is made on the basis of variant educational qualifications, such classification must be held to be valid, irrespective of the nature and purpose of the classification or the quality and extent of the difference in the educational qualifications. It must be remembered that life has relations not capable always of division into inflexible compartments. The moulds expand and shrink. The test of reasonable classification has to be applied in such case on its peculiar facts and circumstances. It may be perfectly legitimate for the administration to say that having regard to the nature of the functions and duties attached to the post, for the purpose of achieving efficiency in public service, only degree holders in engineering shall be eligible for promotion and not diploma or certificate holdersâ€.

11. In *Roop Chand Adlakha (supra)*, the question that arose was, when recruitment to a particular cadre of posts is made, from the different sources, different conditions, based on the differences in educational qualifications, can be prescribed conditioning the eligibility for further promotion to a higher cadre in service.

12. In *B. Satyanarayana Rao (supra)*, the question arose was, whether the 2 posts of Regional Transport Officers in the Department of Transport can be filled in by transfer of Section Officers of the Secretariat and Superintendents of the office of the State Transport Authority.

13. In *State of Punjab and Others Vs. The Senior Vocational Staff Masters Association and Others (supra)* the Government of Punjab cancelled the earlier Notification by clarifying the position that only those Vocational Masters who were appointed prior to 08.07.1995 and those who acquired the qualification of post-graduation or degree in engineering by 08.07.1995 would be eligible for scale of pay of Rs. 6,400-10,640/- with effect from

01.01.1996 and also issued a direction to recover the excess amount being paid to any ineligible vocational master on the basis of the earlier

Notifications. The Writ Petition and Letters Patents Appeal were decided in favour of the respondents and the State of Punjab filed the Civil Appeal.

The Honâ€™ble Apex Court while dismissing the appeals observed as under:-

â€œ18) We are conscious of the fact that a differential scale on the basis of educational qualifications and the nature of duties is permissible.

However, it is equally clear to us that if two categories of employees are treated as equal initially, they should continue to be so treated unless a

different treatment is justified by some cogent reasons. In a case where the nature of duties is drastically altered, a differential scale of pay may be

justified. Similarly, if a higher qualification is prescribed for a particular post, a higher scale of pay may be granted. However, if the basic qualifications

and the job requirements continued to be identical as they were initially laid down, then the Court shall be reluctant to accept the action of the authority

in according a differential treatment unless some good reasons are disclosed. Thus, the decisions relied upon by learned senior counsel are clearly

distinguishable and are not applicable to the facts of the present caseâ€™.

14. In Carmel Polytechnic College (supra), the issue involved was with regard to the qualifications required for promotion to the post of Principal in

Polytechnic Colleges.

15. Per contra, Shri Gyanendra Singh, learned counsel appearing for the 3rd respondent-AICTE submits that prescribing higher qualifications for

granting the higher pay scales or for consideration for promotions is permissible as per the settled principles of law. No employee can have any

objection if a higher qualification is prescribed for granting of any higher pay scale or Grade Pay or promotion.

16. Mrs. Rashmi Chopra, learned counsel appearing for respondents No.1 and 2-GNCTD submits that the applicants having availed the benefit of

placing in the AGP of Rs.9000/- vide Annexure RA-6 dated 02.08.2017 which was issued in pursuance of impugned Annexure A-3 dated 04.01.2016

and Annexure A-2 dated 29.07.2016, cannot seek quashing of the same or challenge it, in any manner. It is further submitted that â€œNo Objection

Certificate (NOC) for pursuing Ph.D degrees were given to all those who ever sought for it including the first applicant, as evidenced by Annexure

R-13 to their counter. If NOC was not given to any of the applicants, for any reason, the cause of action arose for them at that point of time only.

17. The learned counsel for the respondents have placed reliance on the following decisions in support of their submissions:-

(i) OA No.4478/2015 - Shri Sanjura Ho and Others Vs. Govt. of NCTD and Others decided on 28.07.2017 of the Central Administrative Tribunal,

Principal Bench, New Delhi.

(ii) W.P. No.578/2013 and connected cases " Shri Bhabesh Goswami and Others Vs. The State of Assam and Others decided on 04.03.2016 of the

Honorable High Court of Assam at Gauhati.

(iii) W.P. (C) No.31862/2008 " Smt. Anandavally M.K. Vs. Dr. P.G. Jairaj and Others decided on 16.12.2013 of the High Court of Kerala.

(iv) W.P. (C) No. 12083/2016 " Prof. Sachin Maheshwari Vs. Netaji Subhas Institute of Technology and Another decided on 11.12.2017 by the

Honorable High Court of Delhi.

18. In Sanjura Ho and Others (supra), a Co-ordinate Bench of this Tribunal after considering Sri Bhabesh Goswami and Others (supra), in somewhat

identical circumstances, i.e., challenge to the action in disqualifying the Lecturers (Senior Scale) from placing in the scale of Lecturers (Selection

Grade) on the ground of their non-possessing ME/M.Tech qualifications, that to in respect of the similar Notification of AICTE, dismissed the OA.

19. In Sachin Maheshwari (supra), when the respondent-Netaji Subhas Institute of Technology and Another prescribed a scale higher than the one

prescribed by the AICTE in its regulations for the post of Director and also prescribed a higher eligibility conditions for appointment to the said post of

Director, the said action was challenged and a Learned Single Judge of the Honorable High Court of Delhi while dismissing the Writ Petition,

observed as under:-

"34. From the above, it is clear that the Supreme Court has on the basis of its judgment of the Constitution Bench in Preeti Srivastava (Dr.) (supra)

and the decision of the larger Bench in S.V. Bratheep (supra) has clarified that prescribing higher standards for admission by laying down

qualifications in addition to or higher than those prescribed by AICTE, consistent with the object of promoting higher standards and excellence in

higher education, will not be considered as adversely affecting the standards laid down by the central body/AICTE. Since the limited reliance has been

placed by Mr. Tarkeshwar Nath on the judgment of the Supreme Court in the case of Rungta Engineering College, Bhilai & Anr v. Chhattisgarh

Swamy Vivekananda Technical University & Anr (supra) with regard to para 33, wherein the Supreme Court had referred to the judgment in State of

T.N. v. Adhiyaman Educational & Research Institute (supra), which was already clarified by the Supreme Court in its earlier judgment in

Visveswaraiah Technological University and Anr. v. Krishnendu Halder and Ors. (supra) and which was not brought to the notice of the Supreme

Court and such a conclusion being based on its Constitution Bench judgment in the case of Preeti Srivastava (Dr.), the position of law must be held to

be that higher standards can be prescribedâ€.

20. Shri Saurabh Ahuja, learned counsel appearing for private respondent Nos.4 & 5 adopted the submissions made on behalf of the remaining

respondents and further submits that the private respondents No.4 & 5 are fully qualified and eligible for placement in the higher AGP of Rs.10000/-

as they are possessing all the requisite qualifications and service including the Ph.D qualifications and their placement was stalled by the applicants by

obtaining impugned orders in the OA and accordingly prays for vacation of the same and for dismissal of the OA.

21. It is to be seen that for appointment as Lecturers, Ph.D qualification was not an essential qualification. Accordingly, both the applicants and private

respondents were appointed as Lecturers though neither of them were possessing Ph.D qualification at the time of their appointment as Lecturers. It

is also a fact that the private respondents No.4 & 5 completed the Ph.D qualification after they were appointed as Lecturers and whereas the

applicants failed to acquire the same. It is also a fact that the Annexure A-7, 2010 Notification does not provide for placement of Lecturers (Selection

Grade) in the higher AGP of Rs.10000/-. The said benefit was conferred for the first time by the respondents only by way of impugned Annexure A-

3, 2016 clarification. However, the said benefit was conferred only to those Lecturers (Selection Grade) who are possessing Ph.D qualification.

22. Firstly, we cannot accept the submission of the applicants that since they, i.e., Lecturers (Selection Grade) who are not possessing Ph.D

qualification, were excluded from granting the benefit of placing in the higher AGP of Rs.10,000/-, those Lecturers (Selection Grade) who are

possessing Ph.D qualification should also be debarred from granting the same by quashing the relevant impugned clause from the impugned Annexure

A-3, 2016 Notification. It is more so, when they and the private respondents got the benefit in getting the placement in the higher AGP of Rs.9000/-,

i.e., for placement from Lecturer (Senior Grade) to Lecturer (Selection Grade) by virtue of the Annexure RA-6 dated 02.08.2017 which was issued in

pursuance of the impugned Annexures A-2 and A-3.

23. Secondly, as held in Sachin Maheshwari (supra), after following Constitution Bench judgment in Preeti Srivastava (Dr.) Vs. State of M.P., (1999)

7 SC 120 that prescribing higher standards for placement in higher AGP cannot be found fault with. The facts reveal that the applicants have not

seriously pursued to acquire the Ph.D qualification though other similarly placed Lecturers, who were also originally not possessing the Ph.D

qualification like the applicants, pursued and acquired the said qualification and thereby became eligible for placement in the higher AGP of

Rs.10,000/-. Since there is no time limit prescribed under the regulations, even the applicants can also be considered for placement in higher AGP of

Rs.10,000/-, as and when they acquire the Ph.D qualification.

24. As held by the Constitution Bench of the Honâ€™ble Apex Court in Mohammad Shujat Ali and Others (supra), â€œthe test of reasonable

classification has to be applied in each case on its peculiar facts and circumstancesâ€™. In the facts of the present case, we do not find any illegality in

prescribing Ph.D qualification, for granting the AGP of Rs.10,000/-, for the purpose of achieving efficiency in public service.

25. Moreover, a Co-ordinate Bench of this Tribunal in Sanjura Ho and Others (supra), after considering an identical challenge, in respect of the similar

AICTE Regulations, dismissed the OA.

26. In the circumstances and for the aforesaid reasons, the OA is dismissed, being devoid of any merit. The interim order dated 09.10.2017 also stands vacated. No costs.