

(1999) 05 P&H CK 0030

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 11641 of 1998

Murari Lal Saini

APPELLANT

Vs

Kurukshetra University and
Another

RESPONDENT

Date of Decision: May 20, 1999

Citation: (1999) 123 PLR 211

Hon'ble Judges: Harjit Singh Bedi, J

Bench: Single Bench

Advocate: Rajneesh Narula, for the Appellant; R.S. Chahar, for the Respondent

Final Decision: Allowed

Judgement

Harjit Singh Bedi, J.

The petitioner was appointed as a Wrestling Coach in the Kurukshetra University on 16th October, 1979 on the basis of his qualifications of B.A. and Diploma in Coaching from the Netaji Institute of Sports, Patiala. He obtained his Mater's Degree in Physical Education in June, 1995 (during the course of his service) and, thereafter, applied for registration for a Ph.D. Degree in Physical Education as per his application dated 3rd May, 1996, Annexure P-1 to the petition. As no reply was forthcoming, he submitted a representation dated 23rd February, 1998 Annexure P-2 to the petition, pointing out that he had been imparting instruction in wrestling to students of the University and was thereby entitled to registration, and that even the State Government had, vide notification dated 4th March, 1987, redesignated the Sports Officer working in the Universities and affiliated Colleges as Lecturers. The petitioner's case was, however, not considered sympathetically and vide Annexure P-6 dated 2nd April, 1998, he was informed that his request had been declined "being not covered under the relevant provisions of the Rules". The petitioner then served a registered notice through counsel but still finding no redressal has filed the present writ petition.

2. In the reply filed by the respondent-University. It has been pointed out that the petitioner was not a Teacher as he was holding a non-academic and non-teaching post and as such, was not eligible for being registered for the Ph.D. Course.

3. A replication has also been filed by the petitioner controverting the assertions made in the written statement.

4. Rule 3(ii) of the Rules which governs the petitioner's case is reproduced below:-

"At least 50 per cent marks at the Master's Degree Level and at least three years full time teaching experience in the subject in a recognised College/University Teaching Department".

5. It is the conceded position that the petitioner fulfills all other qualifications for registration but the parties are at variance as to whether the coaching in the sport of wrestling that the petitioner has been imparting to his students can count as "teaching experience". In this connection, Mr. Narula, has placed reliance on a judgment of the Hon'ble Supreme Court in P.S. Ramamohana Rao Vs. A.P. Agricultural University and Another, to contend that from the nature of duties which the petitioner was performing in the service of the University, he clearly fell within the definition of a Teacher and as such, he was eligible to count this experience for the purpose of registration for the Ph.D. Degree.

6. Mr. Chahar, the learned counsel representing the University has, however, argued that the judgment in question was distinguishable on facts as the provision under scrutiny was substantially different.

7. The learned counsel for the parties have been heard on this score. The petitioner in the cited case, who was a Physical Director of the University claimed that he was a teacher and, thus, entitled to continue in service up to the age of 60 years in contra-distinction to other employees who were to super-anuate at the age of 58 years. Reliance was placed on Sub-clause (n) of Section 2 of the Andhra Pradesh Agricultural University Act, 1963 for this assertion, this provision is reproduced below:-

"teacher" includes a professor, reader, lecturer or other person appointing or recognised by the University for the purpose of imparting instruction or conducting or guiding research or extension programmes and any person declared by the statutes to be a teacher."

8. On examining the Clause aforequoted, the Court observed that the word "teacher" had not been specifically defined in the Act and as the definition was an inclusive one, the duties and functions of a Physical Director had to be examined so as to determine as to whether the petitioner fell within the category of a "teacher". The Court then examined this aspect on the basis of the affidavit that had been filed and came to the conclusion that "from the aforesaid affidavit, it is clear that a Physical Director has multifarious duties. He not only arranges games and sports for

the students every evening and looks after the procurement of sports material and the maintenance of the grounds but also arranges inter-class and inter college tournaments and accompanies the students team when they go for the inter-University tournaments. For that purpose; it is one of his important duties to guide them about the rules of the various games and sports. It is well known that different games and sports have different rules and practices and unless the students are guided about the said rules and practices, they will not be able to play the games and participate in the sports in a proper manner. Further, in our view, it is inherent in the duties of a Physical Director that he imparts to the students various skills and techniques of these games and sports. There are large number of indoor and outdoor games in which, the students have to be trained. Therefore, he has to teach several skills and techniques of these games apart from the rules applicable to these games."

9. The facts of the present case have to be examined, in the light of the judgment of the Supreme Court with special reference to the passage quoted above as the words "teaching experience" too have not been defined. It is apparent that the petitioner who had been imparting skills in wrestling to students of the University since 1979 fell within the definition of a "teacher". The petitioner's situation is, to my mind, a still happier one as Rule 3(ii) does not require that a candidate should be a teacher but that he must have "teaching experience" and merely because the petitioner happens to impart instruction in physical activities does not detract from his character as a teacher and his vocation as teaching experience. I am, therefore, of the opinion that this petition must succeed. *Ipso-facto*, the order Annexure P-6 is quashed and a direction is issued to the University to grant permission to the petitioner to undergo the Ph.D. Course in question. No order as to costs. *Dasti Order.*