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*Before S.S. Nijjar & J.S. Narang, JJ.*

DR. MANMOHAN SINGH CHAUHAN & ANOTHER—*Petitioners*

versus

PANJAB UNIVERSITY, CHANDIGARH & OTHERS—*Respondents*

C.W.P. No. 5816 of 2001

4th December, 2004

*Constitution of India, 1950—Art. 226—Notification dated 24th December, 1998 issued by the University Grants Commission—University inviting applications from eligible Readers for promotion to the post of Professor—A Reader on completion of 8 years of service becomes eligible for promotion to the post of Professor—Para 8 of Notification dated 24th December, 1998 provides that the previous service without any break in any University should be counted for placement of Lectureres in Sr. Scale/Selection Grade—University passing resolution for not counting the service/experience of the Readers in the previous universities/organisations prior to 23rd January, 2003, the date when the UGC had taken the decision for counting the past service rendered as Reader/Associate Professor in any other recognised University/College—Resolution dated 30th April, 2004 passed by the Syndicate clearly indicates that the previous service rendered in any other University/Organisation would be counted—Stand of the University that the same shall be countable w.e.f. 23rd January, 2003 is not tenable—Petitioner held to be eligible for consideration for promotion to the post of Professor by counting their previous service rendered as Reader etc. in different Universities/Organisations—Petition allowed.*

*Held*, that the petitioners are entitled to the benefit of previous service as reader etc. and resultantly would be entitled to consideration for selection/promotion from Reader to Professor and shall also be entitled to fixation of the pay scale accordingly. The consistent stand of the University Grants Commission has been that the view expressed by it in para 8 of the requisite circular does not require any further clarification. Especially, in view of the resolution passed by the Syndicate in its meeting held on 30th April, 2004 in respect of counting of past service for promotion from Reader to Professor, it is clearly

indicative of the fact that the previous service rendered by the claimants in any other University/Organisation would be liable to be counted. The stand that the same shall be countable with effect from 23rd January, 2003 is not all tenable. This approach is based on the stand of the University Grants Commission pursuant to the contents of para 8, the previous service has to be counted provided there is no break in service. It may be noticed that although the word 'Reader' does not find mention in the para but the same stood clarified by the University Grants Commission in its reply *vide* letter issued in December, 2000.

(Para 20)

*Further held*, that it is no where the stand of the University that 8 years experience, to be considered for promotion to the post of Professor, has to be in the same University. The emphasis is upon the experience as a Reader and the said teaching experience in that capacity may be rendered anywhere. A particular reference is to the teaching experience and not the place which fact has been rightly emphasised in para 8.

(Para 23)

P.S. Patwalia, Senior Advocate, with T.P.S. Chawla, Advocate,  
*for the petitioners*

Vikrant Sharma, Advocate, *for Respondents 1 and 2*

Atul Nehra, Advocate for the University.

### JUDGMENT

**J.S. NARANG, J.**

(1) This judgment would dispose of both the petitions i.e. CWPs 5816 and 5036 of 2001 as the point at issue is the same i.e. the petitioners have claimed the benefit of previous service rendered by them, respectively.

(2) For brevity, the facts are being taken from CWP 5816 of 2001. However, if any fact is required to be referred in respect of the petitioner in CWP 5036 of 2001, it shall also be referred at the relevant stage.

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(3) Petitioner No. 1 was appointed in the year 1988 as Lecturer in German language in the Department of Humanities and Social Sciences in Roorkee University, Roorkee. He sought appointment as a Reader in the same subject in Baroda University in the year 1992 in the pay scale of Rs. 3700-5700/-. In the year 1993, he came across an advertisement issued by the Punjab University-respondent No. 1 for the post of a Reader in the aforesated subject. Upon selection, he was appointed as a Reader in 1995.

(4) Petitioner No. 2 was selected as a Research Scientist in the year 1994 and he joined on 1st August, 1994 the respondent No. 1 in the pay scale 3700-4500/-. He was selected to the post of a Reader on 21st January, 1994 in the pay scale of Rs. 3700-5700/-.

(5) So far as the petitioner in CWP 5036 of 2001 is concerned, he was appointed as Associate Professor on 29th August, 1988 in the subject of Bio-Chemistry in the Department of Basic Sciences in Y.S. Parmar University at Solan (H.P.). The scale of the said post was Rs. 3700-5700/-. It has also been claimed that the said post is equivalent to the post of Reader. He also came across an advertisement for the post of Reader in the Department of Bio-Chemistry issued by the Punjab University, Chandigarh, in the aforesated pay scale. He was called for interview and was selected accordingly. Pursuant to the letter of appointment dated 25th April, 1997, he joined the said post on 27th May, 1997. He was confirmed as Reader,—*vide* order dated 17th March, 1999 with effect from 27th May, 1988 after completion of one year of service.

(6) In the year 1998, pursuant to recommendations of the University Grants Commission, the pay scales of teaching personnel and the academic staff of Punjab University were revised. Resultantly, *vide* notification dated 20th February, 1999, the pay scales were revised accordingly. As a consequence thereto, the pay scale of 3700—5700/- stood revised to Rs. 12,000—18,300/-. However, the aforesated petitioners have not been placed in the scale accordingly. Respective representations had been filed with the competent authorities.

(7) As per University Grants Commission, "Career Advancement Scheme" which was duly adopted by the Punjab University *vide* circulars dated 4th May, 1999 and 22nd August, 2000, the Readers

became eligible for promotion to the post of Professor on completion of 8 years of service as Reader. In September, 2000, pursuant to the aforesaid circulars, the respondent-University invited applications from the eligible Readers for promotion to the post of Professor.

(8) In response thereto, the petitioners submitted their respective applications with the departments. Experience as Reader in their previous respective jobs was also counted. It shall be appropriate to note that petitioner No. 2, in the petition in hand, sought clarification from the University Grants Commission i.e. respondent No. 3 as to whether the previous service rendered by the Lecturers/Readers would be counted for being considered for selection to the higher post of Professor. The communication dated 10th May, 2000 (copy Annexure P-12) was received from the University Grants Commission. The excerpt of the same reads as under :—

“Subject : Decision on counting of previous service.

Sir,

With reference to your letter No. 8582 dated 1st March, 2000 seeking clarification in case of teachers who migrate from one University to other for Career Advancement Scheme, I would like to request you to refer to para 8 of the UGC Notification No. F. 3-1/94 (PS) dated 24th December, 1998 which is self explanatory.

Yours faithfully,

(Sd.)...,

(Mrs. Kulwant Kalra)  
Section Officer

(9) A categoric reliance and refernece has been made to para 8 of the University Grants Commission notification No. No. F. 3-1/94 (PS) dated 24th December, 1998, which has been reproduced in the petition and the same reads as under :—

“8.00 **Counting of Post Service** Previous service, without any break as a Lecutrer or equivalent, in a University, College, National Laboratory, or other Scientific

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Organisations e.g. CSIR, ICAR, DRDO, UGC ICSSR, ICHR and as a UGC Research Scientist, should be counted for placement of lecturer in Senior Scale/Selection Grade.....”

(10) It has been averred that the aforestated para categorically indicates that the previous service, without any break, in a University, College, National Laboratory or other scientific organisations (which have been mentioned in the para) should be counted for placement of Lecturer in Senior Scale/Selection Grade.

(11) Perhaps the respondent-University also sought such clarification from the University Grants Commission and somewhat similar rather more explanatory reply was received,—*vide* communication of December, 2000 (copy Annexure P-13), the excerpt of which reads as under :—

“F. 2-5/2000(PS)

Sh. R.P. Bedi,  
Registrar,  
Punjab University,  
Chandigarh-160 014

Sir,

With reference to your letter No. 11476/Esstt. 1 dated 29th September, 2000 on the subject cited above, I am directed to refer to para 8.00 of the UGC Notification No. P. 3-1/94 (PS) dated 24th December, 1998 which is self explanatory. It is also informed that the incumbent should have eight years of service experience as Reader in the pay scale of Rs. 3700—5700/- (Pre-revised) or Rs. 12,000-18,300 (revised) for promotion to the post of Professor.

Yours faithfully,

(Sd.)...,

(Narain Singh)

Encl./As above under Secretary.

Copy to :

Dr. C.S. Aulakh, Department of Physics, Panjab University,  
Chandigarh 160 014 with reference to his letter dated 15th  
September, 2000.

(Sd.)...

(K.C. MALRUR)  
Section Officer”

(12) It stood amply clarified that the person entitled to be considered for the post of Professor should have put in 8 years of service/experience as Reader in the pay scale of Rs. 3,700—5,700 (Pre-revised) or Rs. 12,000—18,300 (revised). It is not the requirement that such experience should be in a particular University where the applicant has to be considered for being appointed as a Professor. It may be noticed that the pay scales of petitioners 1 and 2 in the petition at hand have also not been fixed pursuant to the service rendered by Reader in different Organisations/Universities. In this regard also the relief has been asked for by them in the present petition.

(13) Notice of motion was issued,—*vide* order dated 24th April, 2001. A short reply has been filed by respondent No. 3—i.e. University Grants Commission. However, no reply has been filed by the other respondents despite the opportunity granted. Learned counsel for the University did place before us a resolution passed by the Syndicate in its meeting held on 30th April, 2004, which is taken on record and is marked as “C-1”. The excerpt of which reads as under :—

“PUNJAB UNIVERSITY (CHANDIGARH) Copy of the  
paragraph 15 from the minutes of the meeting of the  
Syndicate held on 30th April, 2004.

15. Considered and

RESOLVED : That letter No. F. 2-5/2000 (PS) dated 13th  
March, 2003 (re-produced below) from the University  
Grants Commission, New Delhi, regarding counting of past  
service for promotion from Reader to Professor under the  
Career Advancement Scheme, be adopted with effect from  
23rd January, 2003 i.e. the date of UGC decision.

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(14) The Commission in its meeting held on 23rd January, 2003 considered the guidelines for counting of past service for promotion from Reader to Professor and decided that past service rendered as Reader/Associate Professor (in the scale of pay of Rs. 3,700—5,700 or revised Rs. 12,000—18,300 in any other recognised University/College be counted for promotion to the post of Professor under Career Advancement Scheme.”

(15) On the other hand, learned counsel for the petitioners has produced in Court a communication dated 13th March, 2003 addressed by the University Grants Commission to the Registrar of all the Universities as per the list attached. The same is also taken on record and is marked as “C-2”. The excerpt of which reads as under :—

“UNIVERSITY GRANTS COMMISSION  
BAHADUR SHAH ZAFAR MARG  
NEW DELHI-110 002

F. 2-5/2000(PS)            13th March, 2003

The Registrar,

(All Universities)

(As per list attached)

Subject: Guidelines for counting of past service for promotion  
from Reader to Professor under Career Advancement  
Scheme

Sir/Madam

The Commission in its meeting held on 23rd January, 2003, considered the guidelines for counting of past service for promotion from Reader to Professor and decided that past services rendered as Reader/Associate professor (in the scale of pay of Rs. 3,700—5,700 or revised Rs. 12,000—18,300) in any other recognised University/College be counted for promotion to the post of Professor under Career advancement Scheme.

This is for your information and necessary action.

Yours faithfully,

(Dr. (Mrs.) Pankaj Mittal,  
Joint Secretary”

(16) However, another communication dated 23rd September, 2003 issued in supersession of letters dated 13th March, 2003 and 27th May, 2003 has also been produced, which is taken on record and is marked as "C-3". The excerpt of which reads as under :—

"UNIVERSITY GRANTS COMMISSION  
BAHADUR SHAH ZAFAR MARG  
NEW DELHI-110 002

No. F. 2-5/2000(PS) September, 2003

The Registrar,

(All Universities)

as per list attached

*Subject* : Guidelines for counting of past service for promotion from Reader to Professor under Career Advancement Scheme.

Sir/Madam,

This is in supersession of this office letter No. F. 2-5/2000(PS) dated 13th March, 2003, and 27th May, 2003 (copies enclosed) on the subject cited above, I am directed to inform you that counting of past service for promotion from Reader to Professor under Career Advancement Scheme be kept in abeyance until further direction from us. The circulars above quoted may please be treated as withdrawn.

Yours faithfully,

(A.K. Dogra),  
Joint Secretary"

(17) It shall be appropriate to notice the stand of the University Grants Commission taken before this Court. In the short affidavit dated 29th March, 2003 the relevant paras read as under :—

"3. That the answering respondent has considered this issue in its meeting held on 5th June, 2002 and 25th June, 2002 and framed draft guidelines for counting of past/previous service and the same had been sent to the Ministry of



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Human Resources Development for their approval. The Ministry of Human Resources Development has again referred the issue back to University Grants Commission for reconsideration.

4. In the meantime, the Commission, in its meeting held on 23rd January, 2003 reconsidered the issue in view of the query made by the Ministry of Human Resources Development. The Commission resolved, that services rendered as Reader/Associate Professor in the scale of pay of Rs. 3,700—5,700 or revised Rs. 12,000—18,300 in any University/College be counted for promotion to the post of Professor. The issue regarding counting of past services of other equivalent grades for promotion as Professor under Career Advancement Scheme shall be considered again at later date. The University Grants Commission is going to circulate the decision of the Commission.

In view of the above, it is respectfully prayed that the present writ petition may kindly be disposed of accordingly.”

(18) Learned counsel for the petitioner has argued that the University, despite having passed the resolution dated 30th April, 2004 in the meeting of the Syndicate is not counting the service/experience of the petitioners as Reader in the previous Universities/organisations prior to 23rd January, 2003 on the premises that the University Grants Commission had taken the decision on the said date. It is further the stand that the said decision has been adopted by the University and, therefore, the relief shall be granted only from that date. It has been argued that in fact, the relief ought to be granted in respect of the service rendered by the petitioners as Reader etc. prior to the aforesaid date. The opinion of the University Grants Commission is that pursuant to para 8 (referred to here above) of the circular, the previous service as Reader has to be counted, no matter in which University/organisation the candidate may have served.

(19) On the other hand, learned counsel for the respective respondents have emphasised that pursuant to the resolution passed by the Syndicate of respondent No. 1, the past service has to be counted with effect from 23rd January, 2003. Similarly, the said service has to be counted for the purposes of fixing the scale.

(20) We have heard learned counsel for the parties and have also perused the paper book and so also the stand of respondent No. 3, the relevant para of which has been noticed here above and have also perused the documents produced in Court, which have been marked respectively. We are of the opinion that the petitioners are entitled to the benefit of previous service as Reader etc. and resultantly would be entitled to consideration for selection/promotion from Reader to Professor and shall also be entitled to fixation of the pay scale accordingly. The consistent stand of the University Grants Commission has been that the view expressed by it in para 8 of the requisite circular noticed above, does not require any further clarification. Especially, in view of the resolution passed by the Syndicate in its meeting held on 30th April, 2004 in respect of counting of past service for promotion from Reader to Professor. It is clearly indicative of the fact that the previous service rendered by the claimants in any other University/Organisation would be liable to be counted. The stand that the same shall be countable with effect from 23rd January, 2003, is not all tenable. This approach is based on the stand of the University Grants Commission pursuant to the contents or para 8 as noticed above, the previous service has to be counted provided there is no break in service. It may be noticed that although the word "Reader" does not find mention in the para but the same stood clarified by the University Grants Commission in its reply,—*vide* letter issued in December, 2000, copy Annexure P-13. The excerpt of which has been noticed here above.

(21) We have also perused the communication dated 23rd September, 2003, which has been issued in supersedence to the letters dated 13th March, 2003 and 22nd May, 2003 which does not indicate that the decision taken by it on 23rd January, 2003 was also watered down by the said communication. The resolution of the Syndicate is based upon the decision by the University Grants Commission with effect from 23rd January, 2003.

(22) Learned counsel for the petitioner has also placed reliance upon the judgment of Hon'ble the Supreme Court of India rendered in **Dr. Sharadendu Bhushan versus Nagpur University, Nagpur and others (1)**, wherein it has been categorically held that, denial of the service rendered as Lecturer by the appellant, in the Colleges affiliated to Nagpur University, for considering the grant of a particular

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(1) AIR 1988 S.C. 335

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grade of Lecturer (Senior Scale) under the Scheme framed by the University Grants Commission and accepted by the Central Government would be improper.

(23) In the case in hand, it is nowhere the stand of the University that 8 years experience, to be considered for promotion to the post of Professor, has to be in the same University. The emphasis is upon the experience as a Reader and the said teaching experience in that capacity may be rendered anywhere. A particular reference is to the teaching experience and not the place, which fact has been rightly emphasised in para 8 referred here above.

(24) In view of the above, we are of the considered opinion that the petitioners are entitled to the previous service rendered as Reader etc. in different Universities/Organisations. As the emphasis is to the teaching experience and not the holding of the post in the same University.

(25) Resultantly, the petition is allowed and the respondent-University is directed to consider the petitioners for promotion to the post of Professor in accordance with the provisions of law but by counting their experience as Reader etc. in the other universities as well. It is further observed that wherever the petitioners have to be placed in the revised pay scale after consideration of the previous service rendered as Reader, be also granted accordingly subject to the other provisions of law.

(26) We had been informed that some of the petitioners had been considered for promotion to the post of Professor but they were not found eligible. If that be so, such petitioner (s), be considered once all over again keeping in view the fulfilment or eligibility conditions as aforesaid so far as 8 years experience is concerned. If seniority in this regard upon selection is determinable, the same be dealt with in accordance with law. It shall be appreciated if the entire experience as aforesaid is carried out within a period of 3 months from the date of receipt of the certified copy of this judgment. No order as to costs.

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*R.N.R.*