

2025:PHHC:030064-DB



LPA-1827-2019 (O&M)

Date of Decision: 03.03.2025

Raunak Rathee

...Appellant

Vs.

Dr. Jyoti Deswal and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA****Present:** Mr. R.K. Malik, Sr. Advocate with
Mr. Samrat Malik, Advocate for the appellant.Dr. Anmol Rattan Sidhu, Sr. Advocate and
Mr. Rakesh Nehra, Sr. Advocate with
Mr. Shiv Kumar Sharma, Advocate for respondent No.1.

Mr. Depak Girotra, Advocate for respondents No.3 to 5.

Mr. Amit Rao, Advocate for respondents No.7, 11 and 12.

Mr. Saurabh Mohunta, Sr. DAG, Haryana.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. Learned senior counsel for the appellant has submitted that the Ph.D. degree awarded to the respondent-writ petitioner is in cloud of doubt as a similar Ph.D. degree was awarded to some other person from some other university and, therefore, the benefit of marks on the basis of Ph.D. degree, could not have been awarded by the learned Single Judge.

2. Learned counsel submits that the appellant was selected and it is not her fault if the respondent-writ petitioner had been denied selection and she has been working in the college since 2018. Learned counsel further submits that there is a post available in the college and one Assistant

Professor has also expired. He, therefore, submits that the appellant should be allowed to continue.

3. We have heard learned counsel at length and also perused the judgment passed by the learned Single Judge. It is a case where applications were invited for filling up the posts of Assistant Professor (English). Ten marks were to be allotted to the candidates who have passed Ph.D. degree. The learned Single Judge has noticed the facts relating to award of Ph.D. degree marks to the writ petitioner as well as the submissions of the counsel for the UGC/College and the present appellant and reached to a conclusion that the Ph.D. degree awarded to the writ petitioner was never challenged nor set aside by any competent authority.

4. As per the provisions and regulations issued by the UGC, it reached to a conclusion that ten marks were to be allotted for having passed Ph.D. degree and the action of the Selection Committee in not awarding 10 marks to the writ petitioner in spite of a certificate of Ph.D. degree being available on record, was found to be fallacious and the writ petition was, therefore, allowed setting aside the action of the Selection Committee with directions to the college to reconsider the case of the writ petitioner subject to verification of the provisional certificate placed by the writ petitioner on the record. An observation was also made that if there is any post of Assistant Professor (English) lying vacant, the college would not be precluded from taking into consideration this aspect of the matter by protecting the interest of respondent No.16, i.e. the appellant, herein.

5. The submission of learned counsel for the appellant with regard to the validity of the Ph.D. degree awarded to the writ petitioner being a copy of Ph.D. thesis of one Anjali Dalal, is not a subject matter of the writ petition nor we, in appeal, can examine the similarity of thesis on the basis of which

Ph.D. degree was awarded to two different students belonging to two different universities. If the appellant has any grievance, the appellant has other remedies in law with regard to the same.

6. The only question which was before the learned Single Judge and before us in LPA is with regard to the method and manner in which the selection has been conducted for the post of Assistant Professor (English). It is an admitted position that so far as the writ petitioner is concerned, she had applied by placing on record all the documents which included provisional certificate of having passed Ph.D. degree. However, the Selection Committee did not take the same into consideration and did not award ten marks to the writ petitioner which resulted in the order passed by the learned Single Judge.

7. Learned counsel appearing for the appellant has not been able to convince us as to why those ten marks should not have been awarded to the candidate who had produced her Ph.D. degree. More so, the averments of the counsel for the UGC before the learned Single Judge were that they have not challenged nor doubted the degree awarded to the writ petitioner.

8. We also notice that there is no appeal preferred either by the UGC or the concerned college, challenging the order passed by the learned Single Judge.

9. In view of the above, we are not convinced with the argument addressed by learned senior counsel for the appellant and hence, the same is accordingly rejected.

10. With regard to the submission of the appellant having been working since 2018, we find that the same was on the basis of a selection impugned before the learned Single Judge and if the petition has been allowed in favour of the writ petitioner, the appellant would have to leave her

place and the concerned writ petitioner would be entitled to claim the said post.

11. With regard to the subsequent post having fallen vacant, it is absolutely within the domain of the concerned college and university, whether they would like to fill-up the post from the selection which stood already concluded and where the post was not advertised. The appointment, of course, can be given to a candidate who has been continuously working on *ad hoc* basis if regular selection is to be done subsequently. Be that as it may, so far as the selection is concerned, the same was vitiated on facts where the claim of the candidates having Ph.D. degree was not taken into consideration by the Selection Committee and to that effect an observation made by the learned Single Judge, does not require any intervention. The appeal is misconceived and is accordingly dismissed.

12. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

03.03.2025

rajesh

1. Whether speaking/reasoned?	:	Yes
2. Whether reportable?	:	Yes