

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.11212 OF 2017

RAM CHANDRA

...APPELLANT(S)

VERSUS

STATE OF UTTAR PRADESH AND ORS.

...RESPONDENT(S)

J U D G M E N T

B.R. GAVAI, J.

1. The appellant has filed this appeal challenging the judgment and order dated 25th March, 2014, passed by the Division Bench of the Allahabad High Court in the Writ Petition No. 17066 of 2014, whereby the said writ petition was dismissed.

2. The facts in brief giving rise to the present appeal are as under:

3. The Respondent-Bundelkhand University (hereinafter referred to as “the University”) had published an advertisement for making appointments to various posts of teaching faculty in the year 2002.

4. The appellant had applied in response to the said advertisement and was interviewed by a Selection Committee, which was constituted in accordance with sub-section (4) of Section 31 of the Uttar Pradesh State Universities Act, 1973 (hereinafter referred to as ‘the 1973 Act’).

5. Though, the appellant was not found suitable for the post advertised, he came to be appointed as a Lecturer (Geology) vide order dated 28th February, 2002.

6. Another advertisement came to be issued in the year 2002 for the post of Reader in the subject of Geology. The Selection Committee, which was constituted in accordance with the statutory provisions, found the appellant suitable and recommended him for appointment as a Reader in the subject of Geology. The Executive Council of the University, in its

meeting held on 1st February, 2003, accepted the said recommendation. The appellant was, accordingly, appointed as Reader in the subject of Geology.

7. It appears that after a long period following the appellant's appointment, certain complaints were made to the Hon'ble Chancellor that the appellant's appointment was not in accordance with law. The Hon'ble Chancellor therefore, initiated *suo motu* enquiry under Section 68 of the 1973 Act. In the enquiry, the Hon'ble Chancellor found that the appointment of the appellant was not in accordance with law and as such, he issued an order dated 3rd March, 2014, under Section 68 of the 1973 Act, directing to set aside the successive appointments and promotion of the appellant. In pursuance thereof, the appellant's service came to be terminated vide order dated 7th March, 2014. Being aggrieved thereby, the appellant filed a writ petition before the High Court of Allahabad. The High Court of Allahabad vide impugned order dated 25th March,

2014, dismissed the Writ Petition No.17066 of 2014. Aggrieved thereby, the present appeal.

8. We have heard Ms. Neela Gokhale, learned counsel appearing on behalf of the appellant and Mr. Gaurav Agarwal, learned counsel appearing on behalf of the Respondent-University.

9. The Hon'ble Chancellor, while finding that the appellant's appointment was not legal, has observed that the Selection Committee to be constituted under Section 31(4)(a) of the 1973 Act was required to have three experts to be nominated by the Hon'ble Chancellor. The Hon'ble Chancellor found that neither the University sent the requisition for nomination of the subject experts nor he had appointed any subject experts. It was therefore found that the selection which was contrary to the provisions of Section 31 of the 1973 Act, was not sustainable in law.

10. Undisputedly, even when the appellant was appointed as a lecturer in the year 2002 vide order dated 28th February,

2002, he had responded to the advertisement and his selection was done after the selection procedure as prescribed under the 1973 Act was followed. Insofar as the post of Reader is concerned, an advertisement was specifically issued for the said post. The appellant had applied in response to the said advertisement. The Selection Committee having two subject experts, interviewed him. After finding him to be suitable, the Executive Council of the University accepted the recommendation of the Selection Committee and only thereafter, the appellant was appointed. It could thus be seen that the selection of the appellant was done after following the selection procedure as prescribed by the 1973 Act.

11. A perusal of the order passed by the Hon'ble Chancellor would reveal that the Hon'ble Chancellor has observed that after year 2001, the University had not sought nomination for panel of experts.

12. A further perusal of the order passed by the Hon'ble Chancellor would reveal that the Hon'ble Chancellor had

forwarded the names of the following persons in response to the letter of the Vice-Chancellor dated 25th May, 2001:-

1. Prof. S.K. Lunkad, Kurukshetra University, Haryana.
2. Prof. N.K. Singh, Patna University, Bihar.
3. Prof. V.K. Verma, University of Delhi.
4. Prof. S. Mukherjee, University of Calcutta (WB)
5. Prof. Y.P. Gupta, University of Jammu (J&K)

13. Perusal of the order passed by the Hon'ble Chancellor itself would reveal that the Selection Committee, which selected the appellant for the post of Reader, consisted of the following members:-

1. Prof. Ramesh Chandra – Vice-Chancellor/Chairman.
2. Prof. S.K. Lunkad – Chancellor's Nominee/Expert.
3. Prof. Y.P. Gupta – Chancellor's Nominee/Expert.
4. Prof. S.P. Singh – HOD & Dean Faculty of Science.
5. Shri V.K. Sinha – Registrar/Secretary.

14. It could thus be seen that Prof. S.K. Lunkad and Prof. Y.P. Gupta, who were nominated by the Hon'ble Chancellor vide communication dated 13th July, 2001, were very much there in the Selection Committee.

15. It can thus clearly be seen that the Selection Committee consisted of two Chancellor's nominees. In any case, if fresh

nominations were not sought for by the University from the Hon'ble Chancellor, the appellant cannot be faulted with. It is a matter of fact that the appellant came to be appointed after undergoing entire selection process as required under the statute. The order passed by the Hon'ble Chancellor itself would reveal that the two Chancellor's nominees were available in the Selection Committee which selected the appellant.

16. In that view of the matter, we find that the order dated 3rd March, 2014, passed by the Hon'ble Chancellor, the order dated 7th March, 2014, passed by the Registrar of the University and the impugned order passed by the High Court are not sustainable in law. There is no finding in the impugned order of the High Court that the appellant does not possess the requisite qualification. The appellant had served for a period of 12 years before the order directing his termination was passed by the Hon'ble Chancellor. In that view of the matter, we are of the considered view that the termination of the appellant is not sustainable in law.

17. We are informed that during the pendency of the appeal, the appellant has already superannuated. We will, therefore, have to accordingly mould the relief.

18. It is also stated at the bar that in view of the order of status quo passed by this court on 9th May, 2014, the appellant still continues to occupy the University accommodation. After superannuating, the appellant is not entitled to continue with the said accommodation.

19. In the result, we pass the following order:

- (i) The appeal is allowed.
- (ii) The order dated 3rd March, 2014, passed by the Hon'ble Chancellor, the order dated 7th March, 2014, passed by the Registrar of the University and the impugned order dated 25th March, 2014, passed by the High Court of Allahabad are quashed and set aside.
- (iii) Since the termination of the appellant is set aside, the appellant would be entitled for all the terminal

benefits treating the period between the date of termination and the date of retirement as a period in continuous service. However, the appellant would not be entitled for back wages for the period during which he was out of employment.

(iv) All the terminal benefits to which the appellant is entitled, shall be paid to him within a period of three months from today.

(v) The appellant is directed to handover vacant and peaceful possession of the University accommodation in his occupation within a period of three months from today.

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

There shall be no order as to costs.

.....**J.**
[L. NAGESWARA RAO]

.....**J.**
[B.R. GAVAI]

NEW DELHI;
MAY 10, 2022.