



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE THE CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VINAY SARAF

WRIT APPEAL No. 1306 of 2025

DR. RADHIKA CHOUDHARY KUREEL

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Advocates for the Appellant:

Shri Akash Choudhary Advocate

Advocates for the Respondents:

*Shri Anubhav Jain, Government Advocate for Respondent No. 1/State
Shri Siddharth Shukla, Advocate for Respondent No. 2./University*

Pronounced on : 27.10.2025

JUDGMENT

Per: Justice Sanjeev Sachdeva

1. Appellant impugns order dated 13.02.2025, whereby the Petition filed by the Appellant, seeking a direction to the respondent/authority not to proceed with show-cause notice dated



15.04.2024 and resolution dated 30.06.2024 passed by the Executive Council and to recall the said show-cause notice and the resolution passed and permit the petitioner to continue on the post of Associate Professor, has been dismissed.

2. Respondent No.2 by employment notice dated 22.02.2023 invited online applications for appointment to the post of Associate Professor on a regular basis in the Schedule Caste category. Appellant applied for the said post and submitted her application.

3. Initially Appellant's candidature was rejected on two grounds firstly; that she did not have six publications in UGC care list and secondly; that she did not give evidence of drawing total emoluments equivalent to that of Assistant Professor as per the *All India Council for Technical Education Pay Scales, Service Conditions and Minimum Qualifications for Appointment of Teachers and Other Academic Staff such as Library, Physical Education and Training & Placement Personnel in Technical Institutions and Measures for the Maintenance of Standards in Technical Education — (Degree) Regulation, 2019* (hereinafter referred to as the AICTE Regulations, 2019).

4. Appellant represented against the rejection. Her representation was considered and she was called for the interview before the Selection Committee. Appellant appeared before the Selection Committee and submitted her documents. Pursuant to the interview,



Appellant was appointed on the post of Associate Professor (SC) as per academic pay level-13A + other allowances.

5. Subsequently, the impugned show-cause notice dated 15.04.2024 was issued to the Appellant to explain as to why her services should not be terminated on the ground that the documents submitted by her showed that her total gross emoluments was less than the monthly gross salary at the initial stage of regularly appointed Assistant Professor. In reply, Appellant stated that she possessed the requisite qualifications as provided in Clause-5.2 of the AICTE Regulations.

6. On 22.07.2024, in its meeting the Executive Council resolved to recall the appointment order issued to the petitioner with immediate effect on the ground that she did not satisfy the requisite eligibility condition for appointment to the post of Associate professor. Thereafter order dated 22.08.2024 was issued pursuant to resolution dated 22.07.2024 recalling the appointment order of the Appellant. The show cause notice, resolution of the Executive Council and the order recalling the appointment order were challenged in the subject Petition, which has been dismissed by the Impugned Order dated 13.02.2025, leading to the present appeal.

7. Since, the appointment order has been recalled on the ground that she did not possess the requisite qualification, it would be



expedient to examine the relevant qualification prescribed for the post.

8. The requisite qualification of Associate Professor as prescribed by the AICTE Regulations is as under:-

“I Qualifications for Associate Professor (Level — 13A1, Entry Pay 131400/-)”

i. For direct Recruitment

a. Ph.D. degree in the relevant field and First class or equivalent at either Bachelor's or Master's level in the relevant branch

AND

b. At least total 6 research publications in SCI journals / UGC / AICTE approved list of journals.

c. Minimum of 08 years of experience in teaching / research/ industry out of which at least 2 years shall be Post Ph.D. experience.”

9. For being qualified for appointment to the said post, the candidate had to have minimum of 08 years of experience in teaching or research or industry. Out of the 08 years' experience, minimum 02 years Post Ph.D. experience was required.

10. Clause 2.25 of the AICTE Regulations reads as under:

“2.25 Counting of Past Service for Direct Recruitment and Promotion

Previous regular service, whether national or international, as Assistant Professor, Associate Professor or Professor or



equivalent in a University, College, national Laboratories or other scientific / professional organizations such as the CSIR, ICAR, DRDO, UGC, ICSSR, ICHR, ICMR, DBT or state PSUs etc., should be counted for direct recruitment as an Assistant Professor / Associate Professor / Professor provided that ;

a) The qualifications for the post held are not lower than the qualifications prescribed by the AICTE for Assistant Professor, Associate Professor and Professor as the case may be.

b) The post is / was in an equivalent grade or of the pre-revised scale of pay as the post of Assistant Professor /Associate Professor / Reader and Professor.

c) The candidate for direct recruitment has applied through proper channel.

d) The concerned Assistant Professor, Associate Professor and Professor should possess the same minimum qualifications as prescribed by the AICTE for appointment to the post of Assistant Professor, Associate Professor and Professor, as the case may be.

e) The post was filled in accordance with the prescribed selection procedure as laid down in the Regulations of University / State Government / Central Government /concerned institutions, for such appointments.

f) The previous appointment was not as guest faculty for any duration or ad-hoc or in a leave vacancy of less than one year duration. Ad-hoc or temporary service of more than-one year duration can be counted provided that:

(i) The period of service was more than one year

(ii) The incumbent was appointed on the recommendation of the duly constituted Selection Committee.

(iii) The incumbent was selected for the permanent post in continuation to the ad-hoc or temporary service;



- (iv) *An artificial break in service shall not be used to the prejudice of employee, appointed on permanent basis. The person appointed on a permanent basis shall be given the benefit of the entire service rendered by him with effect from the date of initial appointment (temporary /contract / ad-hoc) notwithstanding the artificial break / breaks in service.*
- (v) *The incumbent was drawing total gross emoluments not less than the monthly gross salary at the initial stage of a regularly appointed Assistant Professor, Associate Professor and Professor, as the case may be; and*
- (vi) *At the time of selection, the negotiated terms and conditions clearly mention the period of experience, nature of experience and same has been consented by the employer.*
- g) *No distinction should be made with reference to the nature of the management (Private/Local Body/ Government) of the institution where previous services were rendered while counting past services under this clause.”*
(underlining supplied)

11. As per the respondents, Appellant does not satisfy Clause 2.25(f)(v) of the AICTE Regulations. As per Clause 2.25(f)(v) of the AICTE Regulations, previous regular service is to be counted for direct recruitment as a Professor/Associate Professor or Assistant Professor provided the various condition mentioned in clauses (a) to (g) are satisfied. As per sub clause (f)(v), relevant for the present case, previous appointment as a guest faculty of any duration is not to be counted. Ad-hoc or temporary service of more than one year is to be counted provided *inter alia* the incumbent was drawing total gross emoluments not less than the monthly gross salary at the initial stage



of a regularly appointed Assistant Professor, Associate Professor and Professor, as the case may be.

12. In the present case, subject advertisement was for the post of Associate Professor. As per the Appellant joined as an Assistant Professor in the Department of Economics and Finance under Self-Financemode at Bundelkhand University, Jhansi on a contractual basis on 08.08.2008. From the year 2008 to 2023 appellant claims to have rendered continuous service as Assistant professor. As per the Appellant, appellant has drawn gross salary of Rs.63,963/-.

13. Appellant was provisionally appointed subject to verification. Appellant by letter dated 16.02.2024 was required to submit Form 16, issued by the previous employer and the income Tax Returns to substantiate, the claim of having received total gross emoluments not less than the monthly gross salary at the initial stage of a regularly appointed Assistant Professor. Appellant vide letter dated 20.02.2024 submitted the required documents.

14. On 15.04.2024, Appellant was issued a Show Cause Notice to show cause as to why the services be not terminated as the Appellant was drawing total gross emoluments less than the monthly gross salary at the initial stage of the regularly appointed Assistant Professor. Appellant respondent to the Show Cause Notice. On 22.07.2024, the Executive Council, after taking into account the reply of the Appellant, came to a conclusion that Appellant was drawing



emoluments less than the gross salary at the initial stage of the regularly appointed Assistant professor. Since the past services of the appellant was as an Assistant Professor on Contractual Basis, same could not be counted for direct requirement as Associate Professor in terms of clause 2.25 of the AICTE Regulations.

15. The following table shows the total gross salary at the initial stage of a regularly appointed Assistant Professor and the total emoluments received by the Appellant:

	Year	Basic	DA	Total Gross salary at the initial stage of a regularly appointed Assistant Professor	Total Emoluments received by the Appellant
As per 7 th Pay Commission	July 2016	57,700	Nil	57,700	41,700 + 3336 = 45,036
	July 2017	57,700	5% (2885)	60,585	42,700 + 4270 = 46,970
	July 2018	57,700	9% (5193)	62,893	45,835 + 4584 = 50,419
	July 2019	57,700	17% (9809)	67,509	45,835 + 4584 = 50,419
	July 2020	57,700	17% (9809)	67,509	53,455 + 5346 = 58,801



	July 2021	57,700	31% (17,887)	75,587	54,455 + 5445 = 59,900
	July 2022	57,700	38% (21,926)	79,626	56,089 + 5609 = 61,698
	July 2023	57,700	42% (24,234)	81,834	58,148 + 5815 = 63,963

16. The above table clearly demonstrates that the Appellant in the last eight years of service, in the zone of consideration, was drawing emoluments less than the gross salary at the initial stage of the regularly appointed Assistant professor.

17. Since Appellant had submitted that she was drawing emoluments as per the 6th Pay Commission, the Executive Committee drew up the comparison as per the 6th Pay Commission and the same is as under:

	Year	Basic	DA	Total Gross salary at the initial stage of a regularly appointed Assistant Professor	Total Emoluments received by the Appellant
	July 2015	21,600	119%	47,304	31,329
	July 2016	21,600	132%	50,112	43,956



As per 6 th Pay Commission	July 2017	21,600	139%	51,624	45,870
	July 2018	21,600	148%	53,568	49,319
	July 2019	21,600	164%	57,024	50,419
	July 2020	21,600	164%	57,024	57,701
	July 2021	21,600	196%	63,936	58,801
	July 2022	21,600	212%	67,392	59,900
	July 2023	21,600	230%	71,280	63,963
	Dec 2023	21,600	230%	71,280	65,882

18. Even if the emoluments were calculated as per the 6th Pay Commission recommendations, Appellant was drawing emoluments less than the gross salary at the initial stage of the regularly appointed Assistant professor.

19. Thus, the Executive Committee had rightly concluded that the past service of the Appellant as an Assistant Professor on Contractual Basis could not be counted for direct requirement as Associate Professor in terms of clause 2.25 of the AICTE Regulations.

20. In view of the above, there is no infirmity in the view taken by the Learned Single Judge in holding that the decision taken by the

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respondents is not illegal and does not warrant any interference. We find no merit in the appeal. The same is accordingly dismissed.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

(VINAY SARAF)
JUDGE