

BANARAS HINDU UNIVERSITY
MEETING OF THE EXECUTIVE COUNCIL
TO BE HELD ON 01.03.2019 AT 10.00 am AT IIC, NEW DELHI

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ITEM 14

TO CONSIDER clarification of University Grant Commission issued vide Public Notice No. 28-9/2018(PS/Misc.) dated 07.12.2018 regarding admissibility of non-compounded advance increments and benefit of number of years required for promotion under CAS for the candidates who have enrolled/registered/completed Ph.D. degree before 11th July, 2009.

NOTE

The University Grant Commission has framed the UGC Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education) Regulation, 2018 uploaded on the UGC website on 18th July, 2018. This Regulation was considered by the Academic Council in its meeting held on September 8, 2018 and it was resolved to recommend to the Executive Council for its adoption in the University. The Executive Council vide ECR No. 45 dated 26.11.2018 has approved the aforesaid recommendation of Academic Council, and the UGC Regulation has been implemented in the University accordingly. The Clause 9.1 of the aforesaid UGC Regulation, 2018, provides for incentives for Ph.D./M.Phil. and other Higher Education and inter alia states as under:

- (i) Five non-compounded advance increments shall be admissible at the entry level of recruitment as Assistant Professor to persons possessing the degrees of Ph.D. awarded in a relevant discipline by the University following the process of admission, registration, course work and external evaluation as prescribed by the UGC.
- (ii) M.Phil degree holders at the time of recruitment to the post of Assistant Professor shall be entitled to two non-compounded advance increments.

Now the UGC vide its public notice No. 28-9/2018(PS/Misc.) dated 07.12.2018 **(Appendix-14)** has issued a clarification regarding admissibility of non-compounded advance increments and benefit of number of years required for promotion under CAS for the candidates who have enrolled/registered/completed Ph.D. degree before 11th July, 2009 as under:

The non-compounded advance increments to such Ph.D. degree holders shall be admissible along with benefit of number of years required for promotion if the following conditions are met:

- (a) Ph.D. degree of the candidate was awarded in regular mode only;
- (b) Evaluation of the Ph.D. thesis by at least two external examiners;
- (c) Open Ph.D. viva-voce of the candidate had been conducted;
- (d) Candidate has published two research papers from his/her Ph.D. work out of which at least one must be in a refereed journal;
- (e) Candidate has made at least two presentations in conferences/seminars, based on his/her Ph.D. work.

The above conditions are required to be certified by the VC/Pro VC/Dean Academic Affairs)/Dean (University instructions).

The aforesaid clarification of UGC on the subject may be considered for implementation in the University.

The Executive Council may kindly consider and approve.



ज्ञान-विद्याय विमुक्तये

प्रो. रजनीश जैन
सचिव

Prof. Rajnish Jain
Secretary



APPENDIX-14

विश्वविद्यालय अनुदान आयोग
University Grants Commission

(मानव संसाधन विकास मंत्रालय, भारत सरकार)
(Ministry of Human Resource Development, Govt. of India)

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F.No.28-9/2018(PS/Misc.)

7 December, 2018

PUBLIC NOTICE

Sub: Clarification regarding admissibility of non-compounded advance increments and benefit of number of years required for promotion under CAS for the candidates who have enrolled/registered/completed Ph.D. degree before 11th July, 2009.

The University Grants Commission has been receiving a number of queries from the Universities with regard to admissibility of non-compounded advance increments as well as benefit of number of years required for promotion under CAS to such Ph.D. holders, who have enrolled/registered/completed Ph.D. degree before 11th July, 2009. The Commission at its meeting held on 14th November, 2018 considered the issue and approved that the non-compounded advance increments to such Ph.D. degree holders shall be admissible along with benefit of number of years required for promotion if the following conditions are met:

- Ph.D. degree of the candidate was awarded in regular mode only;
- Evaluation of the Ph.D. thesis by at least two external examiners;
- Open Ph.D. viva voce of the candidate had been conducted;
- Candidate has published two research papers from his/her Ph.D. work out of which at least one must be in a refereed journal;
- Candidate has made at least two presentations in conferences/seminars, based on his/her Ph.D. work

(a) to (e) above are to be certified by the Vice-Chancellor/Pro-Vice-Chancellor/Dean(Academic Affairs)/Dean(University instructions).

This may be brought to the notice of the colleges under your purview.

(Rajnish Jain)

ITEM 15

TO CONSIDER AND DECIDE a policy for recruitment of teachers through direct recruitment in the Faculty of Medicine and Faculty of Dental Sciences, IMS following the implementation of DACP Scheme in these faculties.

NOTE

The Executive Council in its meeting held on November 26, 2018 after considering the revised recommendations of the Committee, constituted under the Chairmanship of the Director, IMS to work out the modalities for implementation of DACP Scheme in BHU has passed the following resolution vide ECR No. 43:

RESOLVED THAT the revised recommendations of the Committee, constituted under the Chairmanship of the Director, IMS to work out the modalities for implementation of DACP Scheme in BHU be approved.

RESOLVED FURTHER THAT a one time opportunity for consideration of candidature of teachers of faculty of Medicine and Faculty of Dental Sciences for promotion under CAS by the Selection Committee be given to the teachers who became eligible for promotion under CAS prior to the date of the decision of the Executive Council approving implementation of DACP i.e. prior to 14.07.2018.

Accordingly, one time option has been given for consideration of promotion as Professor under CAS to the teachers of the Faculty of Medicine & Dental Sciences, IMS. As per the provision contained in the DACP Scheme, initial appointments to the post of Assistant Professor could be made through direct recruitment in Level-11 in the appropriate Pay Matrix and on completion of required period they will be promoted as per the hierarchy of the cadre under DACP Scheme subject to fulfillment of prescribed eligibility criteria. There is no provision of lateral entry through direct recruitment to the higher posts of Associate Professor, Professor & Director Professor

under the scheme. The scales of pay as prescribed by UGC for sanctioned posts of Associate Professor and Professor on Pay level Rs. 131400-217100 and 144200 to 218200 respectively whereas the scales of pay of Associate Professor, Professor and Director Professor are in the pay level Rs. 78,800-2,09,200, 1,23,100-2,15,900 and 1,44,200 -218200 respectively under DACP Scheme. Thus continuation appointment through direct recruitment on the higher posts of Associate Professor/Professor would perpetuate the anomaly in the scales of pay and further promotion under DACP scheme of such recruited candidates. In the light of the above since the University has already implemented the DACP Scheme, it needs to be decided.

1. Whether, henceforth, all the appointments of Assistant Professors in Faculty of Medicine & Faculty of Dental Sciences, where DACP Scheme is applicable, may be made in Level-11 in the Pay Matrix Rs. 67700 – 208700 instead of in existing Academic Level-10 in the Pay Matrix Rs. 57700 – 182400.
2. Direct entry is made at the initial level of Assistant Professor under DACP Scheme therefore, whether all the positions of existing Associate Professors & Professors of these departments may be downgraded to the level of Assistant Professor in appropriate Level-11 in the Pay Matrix Rs. 67700 – 208700 in consultation with the Director-IMS, if MCI & DCI permits to do so.
3. Reservation Registers and/or Reservation Roster Registers may be maintained at the level of Assistant Professor only.
4. If para-2 *ibid* is okay, then the Head of the Department, Faculty concerned may be requested to send the Draft Advertisement accordingly.

The Director of Institute of Medical Sciences has opined that point No. 1 & 2 agreed with the comments that for newly created Department and for its recognition, a minimum of 3 Faculties (Assistant Professor-1; Associate Professor-1 and Professor -1) are required. The positions of Assistant Professor Associate Professor and Professor can be appointed at the Level - 11, 12 and 13 respectively at the entry point. Their academic qualifications for appointment shall be as per Medical Council of India and Dental Council of India.

Any addition in faculty positions in the newly created Department shall be at the level of Assistant Professor in future.

The Executive Council may consider and decide.

ITEM 16

TO CONSIDER the letter dated 21 August, 2018 of Dr. O.P. Upadhyay addressed to the Hon'ble Chairman and Members of the Executive Council requesting review of the decision of Executive Council taken in its meeting held on 14.07.2019 on the recommendation of the Selection Committee for appointment to the position of Medical Superintendent, Sir Sunderlal Hospital, BHU.

NOTE

Dr. O.P. Upadhyay in his letter dated 21.08.2018 (**Appendix-16A**) has inter-alia prayed for opening the envelope containing the recommendations of the selection committee (vide Adv. No. 02/2017-2018) for appointments to the post of 'Medical Superintendent', Sir Sunderlal Hospital (SSH), Institute of Medical Sciences(IMS), Banaras Hindu University and has stated the following:

The recommendation of the selection committee for the post of 'Medical Superintendent' may kindly be placed before the Executive Council for its approval. Also the service conditions for the post of Medical Superintendent prevailing on 27.09.2017 (i.e. the date of Executive Council Meeting) be made applicable

In this connection it is submitted that post of Medical Superintendent was advertised vide advertisement No. 2/2017-2018 for tenure appointment of five years. Interview for the said post was held on 25.09.2017 and the envelope containing the recommendations of the selection committee, was placed before the Executive Council in its meeting held on 26.09.2017. However, the Executive Council decided not to open the envelope and re-advertise the post and took the following resolution vide ECR No. 471 dated 26.09.2017:

RESOLVED THAT the recommendations of Selection Committees for appointment of teachers, promotion of teachers under CAS, re-employment of teachers, for school teaching positions and of Group A non-teaching officers except Medical Superintendent SSH be approved as per APPENDIX-7 of the Minutes.

RESOLVED Further that the envelope containing the recommendation of the selection committee for appointment to the post of Medical Superintendent, Sir Sunderlal Hospital, BHU be not opened and the post be re-advertised.

Accordingly the post has been re-advertised with the last date of submission of application as 07.07.2018.

Subsequently on the request of Dr. O.P. Upadhyay the matter was placed before the Executive Council in its meeting held on 14.07.2018 and the Executive Council vide ECR No. 34 resolved as under:

RESOLVED THAT the decision of the Hon'ble High Court in the Civil Misc. Writ petition No. 1357 of 2018 of Dr. K.L. Ganguly and Others vs Union of India and Others be awaited.

A copy of ECR enclosed as an **(Appendix-16B)**.

In the mean time Prof. Anand Mohan, Member, Executive Council vide his letter dated 24th September on the appeal of Dr. O.P. Upadhyay dated 21.08.2018, has desired to obtain legal opinion from the Standing Counsel of BHU in the Hon'ble High Court, Allahabad. Shri. V.K. Upadhyay, Sr. Standing Counsel of BHU with the approval of the Vice-Chancellor a legal opinion was sought from who vide his letter dated 02.12.2018 has submitted his opinion on the issue which is enclosed as an **(Appendix 16C)**.

The Executive Council may consider and decide.

Humble Appeal

Hon'ble Vice-Chancellor &
Chairman, Executive Council
Banaras Hindu University

21st August, 2018

Subject: Humble request for releasing the recommendations of the selection committee (vide Adv. No. 02/2017-2018) for the post of 'Medical Superintendent', Sir Sunderlal Hospital (SSH), Institute of Medical Sciences (IMS), Banaras Hindu University.

Respected Sir,

With utmost modesty and humility, may I have your kind permission to submit the following points for your consideration in view of the above subject:

- The post of 'Medical Superintendent', SSH, IMS, BHU is a full time and salaried non-teaching statutory officer of the University. This post was advertised as 5 years tenure position vide advertisement 02/2017-2018; the last date of application was 19.06.2017 (**Annexure-I**).
- The interview vide above advertisement was conducted on 25.09.2017 by duly constituted selection committee where total 09 candidates appeared before the selection committee including the undersigned.
- The Executive Council of the University at its meeting held on 26.09.2017 approved recommendations of all other selection committees *except that of 'Medical Superintendent'*; *without any justification and resolved that the post be re-advertised*.
- Sir, the above decision of the Executive Council is in violation of statutory provisions of BHU, as the recommendations of a selection committee have to be approved or disapproved; and in the case of disapproval, it must be referred to the Hon'ble Visitor along with cogent reasons.
- Therefore, the instant case is totally in contravention of statutory provisions of the University and against the natural justice to the undersigned and other candidates who appeared in the interview for the post of Medical Superintendent.
- Therefore, in order to uphold the statutory provisions and doing natural justice, it is requested that the Executive Council may kindly consider the recommendations of the aforesaid selection committee and take suitable decision considering the service rules prevailing at the time of its meeting on 26.09.2017 (i.e. tenure of 5 years or date of superannuation whichever is earlier).

- It is relevant to mention that the age of superannuation of all the medical posts including Medical Superintendent was 65 years as per notification of Government of India vide reference no. 65-7/2016-Desk(U), dated 29th July, 2016 (Annexure – II). Further, it may be noted that the subsequent notification of the Government of India (vide Ref. No. 65-7/2016-Desk U dated 01st November, 2017 of H.R.D., New Delhi, Annexure-III) stipulating that Doctors shall hold administrative posts till the age of 62 years can't be made effective retrospectively.

- Moreover, the Government of India has decided to upgrade IMS to the level of AIIMS, New Delhi extending entire parity in service conditions to the faculty and other staff. The age of superannuation of Medical Superintendent of AIIMS is 65 years (Annexure – IV).

Sir, I may mention that the undersigned was already serving as Medical Superintendent of SSH, IMS with effect from 13.04.2016 and thus I strongly believe that I may have fair chance of my selection and subsequent appointment as regular Medical Superintendent.

PRAYER

Sir, in view of the above submissions, I most humbly pray the following for your kind blessings:

- The recommendations of the selection committee for the post of 'Medical Superintendent' may kindly be placed before the Executive Council for its approval. Also the service conditions for the post of Medical Superintendent prevailing on 27.09.2017 (i.e. the date of Executive Council Meeting) be made applicable.

With humblest regards,

Yours faithfully,

(O. P. Upadhyay)
Chief Medical Officer
(Former Medical Superintendent, SS Hospital, BHU)

Copy for information to:

1. The Hon'ble Members of Executive Council, Banaras Hindu University.
2. The Registrar & Secretary to the Executive Council, Banaras Hindu University.

(O. P. Upadhyay)
Chief Medical Officer
(Former Medical Superintendent, SS Hospital, BHU)

CONSIDERED the letter dated 02.07.2018 of Dr. O.P. Upadhyay addressed to the Hon'ble Chairman and Members of the Executive Council.

The Executive Council noted that Dr. O.P. Upadhyay in his letter dated 02.07.2018 has inter-alia mentioned that the post of Medical Superintendent was advertised vide advertisement No. 2/2017-2018 for tenure appointment of five years. Interview for the said post was held on 25.09.2017 and the envelope containing the recommendations of the selection committee, was placed before the Executive Council in its meeting held on 26.09.2017. However, the Executive Council decided not to open the envelope and re-advertise the post without assigning any reason. He has therefore requested to open the envelope containing the recommendations of the Selection Committee for appointment to the post of Medical Superintendent as the Executive Council is authorized to either approve or disapprove the recommendation of the Selection Committee as per the provisions of the Act & Statutes of B.H.U.

The Executive Council further noted that the Executive Council while considering the recommendations of the Selection Committees vide ECR No. 471 dated 26.09.2017 resolved as under in the case of Medical Superintendent:

The Executive Council was informed that in addition to the enclosed list of selection committees till 25.09.2017 in agenda, the meetings of the selection committees were also held for direct appointment in the Faculty of SVDV, Chairs, Medical Superintendent, SSH, IMS and for promotion of teachers under CAS in the Faculties of Management, Arts, Social Sciences and Agriculture. The recommendations of Selection Committees kept in sealed covers were placed on the table. Email dated

02.09.2017 of Dr. Kishor Patwardhan, Head, Department of Kriya-Sharir, Faculty of Ayurveda was also placed. The Executive Council also noted that writ petition/PIL have been filed before the Hon'ble High Court of Allahabad challenging the eligibility of some candidates who appeared for interview for the post of Medical Superintendent, Sir Sunderlal Hospital on various grounds. The Executive Council was of the view that under the circumstances it would not be appropriate to open the envelope containing the recommendation of the selection committee for appointment to the post of Medical Superintendent, Sir Sunderlal Hospital, BHU and the post be re-advertised.

RESOLVED THAT the recommendations of Selection Committees for appointment of teachers, promotion of teachers under CAS, re-employment of teachers, for school teaching positions and of Group A non-teaching officers except Medical Superintendent SSH be approved as per APPENDIX-7 of the Minutes.

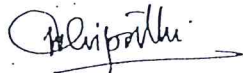
RESOLVED Further that the envelope containing the recommendation of the selection committee for appointment to the post of Medical Superintendent, Sir Sunderlal Hospital, BHU be not opened and the post be re-advertised.

The Executive Council further noted that there is a Civil Misc. Writ petition No. 1357 of 2018 of Dr. K.L. Ganguly and Others vs Union of India and Others in the Hon'ble High Court, Allahabad by some of the applicants for the post of Medical Superintendent vide advertisement No. 2/2017 praying therein for opening of the envelope containing the recommendation of the Selection Committee for the post of Medical Superintendent and declare the result. The Hon'ble Court has not yet passed any order in the said Writ petition. The Executive Council also noted the legal opinion on the matter.

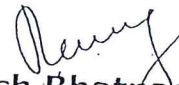
Considering the entire facts of the case and deliberating over them in detail the Executive Council decided to await the decision of the Hon'ble High Court of Allahabad in the aforesaid Writ petition as the matter is sub judice.

RESOLVED THAT the decision of the Hon'ble High Court in the Civil Misc. Writ petition No. 1357 of 2018 of Dr. K.L. Ganguly and Others vs Union of India and Others be awaited.

The meeting then ended with a vote of thanks to the Chair.



(Neeraj Tripathi)
Secretary



(Rakesh Bhatnagar)
Chairman

Vinod Kumar Upadhyaya
Senior Advocate

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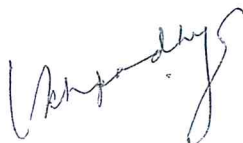
Dated 02-12-2018

OPINION

I have perused the appeal of Dr. O.P. Upadhyay dated 21.08.2018 requesting to release the recommendation of the Selection Committee (vide Adv. No. 02/2017-2018) for the post of 'Medical Superintendent', Sir Sunderlal Hospital (SSH), Institute of Medical Sciences (IMS), Banaras Hindu University.

So far as the request in the appeal for considering the recommendation of the Selection Committee for the aforesaid post is concerned technically there is no legal impediment in consideration thereof by the Executive Council as there is no interim order operating in any writ petition injuncting the Council from considering the said recommendation. However, by the interim order passed in writ petition of Dr. Kundan Sinha the candidature of Dr. O.P. Upadhyay for the said post has been made subject to the decision of the writ petition of Dr. Kundan Sinha. The writ petition no. 1357 of 2018 of Dr. K.L. Ganguly pending in the High Court is also for the same relief as that prayed for in the aforesaid appeal of Dr. O.P. Upadhyay. No orders have been passed by the High Court in the writ of Dr. Ganguly.

The second aspect of the request made in the aforesaid appeal, namely, to 'take suitable decision considering the service rules prevailing at the time of its meeting on 26.09.2017 (i.e. tenure of 5 years or date of superannuation whichever is earlier) seems to be more important in taking a decision in the matter. I have some reservations on the interpretation of applicability of the notification of the Government of India dated 1st November 2017 enhancing the age of superannuation of doctors working in the Central Universities



Vinod Kumar Upadhyaya
Senior Advocate

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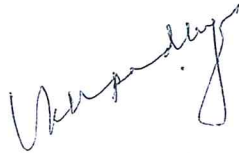
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Dated 02-12-2018.....

etc. to 65 years but stipulating that Doctors shall hold administrative posts till the date of attaining the age of 62 years and thereafter their services shall be placed in Non-Administrative positions.

It is a settled position in law that fixing the age of superannuation is a policy decision. Hence it is open to the government to fix the age of superannuation and as a natural corollary to it either to enhance or to reduce the same. In the instant case the age of superannuation of all doctors working in the Central Universities etc. was enhanced to 65 years by Notification of the Government of India dated 29th July 2016. The O.M. dated 30th September 2017 of the Ministry of Health and Family Welfare, Government of India as communicated by the letter of the MHRD dated 1st November 2017 is merely communication of the ex post facto approval of the Union Cabinet to the enhancement of the age of superannuation to 65 years with the condition that administrative posts shall be held only till attaining 62 years and thereafter the doctors shall continue on non-administrative positions till 65 years. Hence, the Notification dated 29th July 2016 which has received ex post facto approval of the Union Cabinet with said condition will have to be read along with the said condition.

Dr. O.P. Upadhyay has also said in his appeal that the Government of India has decided to upgrade IMS to the level of AIIMS, New Delhi extending entire parity in service conditions to the faculty and other staff and has said that the age of superannuation of Medical Superintendent of AIIMS is 65 years referring to Annexure-IV to his appeal. I do not find any decision of the Government of India



Vinod Kumar Upadhya
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Dated 02-12-2018.....

extending parity in service condition to the faculty and other staff of IMS to that of the AIIMS. I have also gone through the MOU entered into between AIIMS, New Delhi and IMS, BHU dated 19th June 2018. Even the said MOU does not talk of parity in service conditions of faculty and other staff of IMS with that of AIIMS. Hence, reliance placed by Dr. O.P. Upadhyay on the age of superannuation of the Medical Superintendent of AIIMS being 65 years is wholly misplaced.

Registrar



V.K. Upadhya