
(1996) 01 KAR CK 0048
In the Karnataka High Court
Case No : Writ Petition No. 13769 of 1989

Basavaraj A. Patil

APPELLANT

Vs

Karnataka University, Dharwad

RESPONDENT

Date of Decision : 08-01-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 3 KarLJ 105

Hon'ble Judges : Harinath Tilhari, J

Judgement

1. By this petition, petitioner has sought the issuance of writ of certiorari quashing the impugned order contained in Annexure-D dated 16-2-1989 whereby the syndicate of the Karnataka University, Dharwad, resolved not to award Gold Medal in respect of L.L.M., Examination held in April, 1988 on the ground that the petitioner did not secure 60% of marks. The petitioner has further prayed for issuance of writ or order or direction in the nature of writ of mandamus directing the respondent to award Dr. S. Channabasappa Memorial Gold Medal to the petitioner. The facts of the case in brief are that, the petitioner passed the L.L.M., Examination held in April, 1988. The University as per Annexure-A to the writ petition has viewed that the petitioner has been eligible to get the first rank at the L.L.M., Examination and he may apply for the rank certificate along with necessary fees for issue of the same in the form of challan of State Bank of India, Karnataka University Campus or a Demand Draft drawn in the name of Finance Officer, Karnataka University, Dharwad. The petitioner's case is that, he has applied for first rank certificate in relation to L.L.M., Examination and the petitioner was given that rank certificate. The petitioner's case is that, petitioner being the first ranker in L.L.M., Examination held in April, 1988, the petitioner was entitled to the award of the Gold Medal called Dr. S. Channabasappa Memorial Gold Medal and University prize fund of Rs. 150/- being first ranker in L.L.M., The petitioner made a representation to the University on 7-2-1989, but of no avail. Instead, the opposite parties communicated to the petitioner that petitioner cannot be awarded the Gold Medal

as he has secured less than 60% of marks. So the petitioner has preferred this writ petition under Article 226 of the Constitution of India.

2. I have heard the learned Counsel for the petitioner-Learned Counsel for the petitioner submitted that, at the time when the petitioner has passed the L.L.M., Examination, the petitioner under the ordinance governing the award of Gold Medals and prizes had been entitled to the award of Gold Medal and the University prize fund of Rs. 150/-. The petitioner has produced copy of the ordinance of the syndicate bearing Resolution No. 28(III), dated 21-3-1987. According to petitioner's case, there are three conditions as per Ordinances 99(a), 99(b) and 99(c). But these conditions were subject to the exception contained in Ordinance 99(d) and conditions contained in Ordinance 99(c) did not apply to the L.L.M., Courses as per resolution dated 21-3-1987. Petitioner's case is that, under Ordinance 99(c) no doubt there is a condition mentioned that of having secured 60% of marks in the concerned paper and the other condition is that of being passed the said examination in first attempt. The petitioner's case is that, as per condition (c), a candidate shall be eligible for award of Gold Medal and scholarship he has to pass the concerned examination in first attempt and to secure 60% of marks at the examination as a whole, or 60% in the concerned paper or subject if the award relates to the paper or the subject. The petitioner's case is that, in view of Ordinance 99(d) nothing of this condition be applied to the L.L.B., or L.L.M., Course.

3. On behalf of the University Sri R.H. Chandanagoudar submitted that there has been an amendment in the Ordinance with effect from February 1989 vide Resolution No. 55, dated 1-2-1989 and this Ordinance 99(d) had been deleted. The exception is only provided to condition contained in Ordinance 99(a) and that condition will not apply to the case of course referred to therein. But, so far as securing atleast 60% of marks is concerned, the exemption has been deleted and it means, that condition did operate as a consideration for and in the matter of grant of the Gold Medal or the prize or scholarship. Sri Chandanagoudar submitted in this view of the amendment, the University Authorities when they passed resolution dated 16-2-1989 they did not commit any error or illegality in refusing to award the Gold Medal.

4. I have applied my mind to the contentions made by the learned Counsel for the parties. A perusal of Annexure-G does not show that it has amended the earlier regulations retrospectively. The rules, regulations and ordinances framed under the Act are ordinarily be prospective unless the framing authority indicates in the rule while framing or making amendment therein indicates an intention of giving it retrospective effect. It is not the case of the University Authority that deletion of clause (d) of Ordinance 99 was with retrospective effect. It means the amended ordinance will and would have applied to the examinations held after coming into force of the amendment, amending the earlier ordinances. The petitioner in this case had appeared in the L.L.M., Examination of April, 1988. At that time the ordinance as contained in Annexure-C to the writ petition vide

Resolution No. 28(III), dated 21-3-1987 has been in operation. Ordinance 99 reads as under:

ORDINANCE 99:

O. 99(a): No candidate shall be eligible for an award of Gold Medal/Prize/Scholarship, if he joins a course of studies to which the award relates, after a lapse of two academic years from the earlier qualifying examination.

O. 99(b): No candidate shall be eligible for the award of Gold Medal/Prize/Scholarship unless the candidate passes the course in the minimum prescribed period and at first attempt.

O. 99(c): No candidate shall be eligible for the award of Gold Medal, Prize or Scholarship unless the candidate passes the concerned examination in the first attempt and scored 60% of marks at the examination as a whole if the award is on the basis of the examination as a whole or 60% in the concerned paper/subject if the award relates to the paper or the subject.

O. 99(d): Notwithstanding this condition does not apply to the following Courses:

(1) to (3)....

(4) L.L.B., and L.L.M., (5) to (8)

5. A reading of this ordinance particularly Ordinance 99(d) as it operated in 1986, the condition regarding obtaining of at least 60% of marks did not apply to the students appearing in L.L.B. or L.L.M., Examination. There is no doubt that ordinance was amended in February, 1989 and Ordinance 99(d) was deleted vide resolution of February, 1989 and the exemption clause was only provided with reference to the condition as contained in Ordinance 99(a) which debar one from getting the medal, prize or award if he joined the course of his studies relating to award after a lapse of two academic years from earlier qualifying examination. This amendment of 1989 will have to operate with respect to examination held after the amendment. But, so far as the examinations held prior to the amendment, the original Ordinance 99 including Ordinance 99(d) did operate. That being the position of law under the ordinance governing the award of Gold Medals and prizes even if the petitioner secured less than 60% of the marks but as he passed L.L.M; in 1st attempt and he ranked the first position, the petitioner was eligible and entitle to the award of Gold Medal because condition of clause (c) did not apply at that time. The opposite parties as such, in my opinion has illegally deprived him of the award of Gold Medal and the prize by taking a wrong view of law that the condition of 60% of marks was applicable to the petitioner. Thus the petitions has been illegally deprived. The petition of the writ petitioner deserves to be allowed.

In this view of the matter, order contained in Annexure-D to the writ petition dated 16-2-1988 is set aside or quashed. Direction in the nature of mandamus is issued to opposite parties to award the Gold Medal as in accordance with the

opposite parties themselves the petitioner ranks first position in L.L.M. Examination as well as to award the prize or giving the prizes for which he has been entitled to. The petition as such is allowed. The costs are made easy as the University had not filed any counter affidavit.