
(1977) 07 RAJ CK 0004

In the Rajasthan High Court

Case No : Civil Writ Petition No"s. 154 of 1917 and 222 of 1977

Dr. Rameshchandra

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 15-07-1977

Acts Referred:

University Grants Commission Act, 1956 — Section 3

Citation : (1977) RLW 317 : (1977) WLN 353

Hon'ble Judges : D.P. Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.P. Gupta, J.

1.The question which has been raised in these two writ petitions is identical, viz., as to whether a person who has obtained a degree in veterinary science is eligible to appear as a candidate for appointment to the Rajasthan Administrative Service under the Rajasthan Administrative Service (Emergency Recruitment) Rules, 1976 (hereinafter called "the Rules".)

2. The petitioners in both these writ petitions are Graduates, having obtained a degree in Veterinary Science and Animal Husbandry, which in short is called BVSc. and A.H. It is not in dispute that the two petitioners are otherwise qualified to appear at the emergency recruitment of the Rajasthan Administrative Service under the Rules. However, their applications for appearing at the Emergency Recruitment Examination held under the Rules have been rejected by the Rajasthan Public Service Commission (hereinafter referred to as "the Commission") on the ground that the degree of BVSc, and A.H possessed by them has not been recognised for recruitment to the Rajasthan Administrative Service, under the Rules.

3. The decision of the question which arises in these two writ petitions would turn entirely on the interpretation of Rule 11(1) of the Rules which reads as

under:

11. Qualifications. (1) A candidate must hold a degree in Arts, Science, Engineering, Agriculture or Commerce of a University established by law in India or of a foreign University declared by the Government to be equivalent to a degree of a University established by law in India or a degree or diploma recognised by the Government as equivalent thereof.

4. The contention of the learned Counsel for the petitioners is that the degree in Veterinary Science and Animal Husbandry is comprised in the "degree in science" specified in Rule 11(1) while the contention of the learned Additional Government Advocate on the other hand is that the degree in Science referred to in Rule 11 is restricted only to a degree in basic sciences and it does not include the degree possessed by the petitioners or even a degree in medicine for that matter. To arrive at the proper meaning of the words "Degree in Science" as employed in Rule 11 and to arrive at a correct interpretation of the provisions of the aforesaid rule it would be useful to refer to the provisions of Rule 12 of the Rajasthan Administrative Service Rules, 1954 (hereinafter referred to as "the parent rules"), which pertain inter alia to the regular recruitment to the Rajasthan Administrative Service by direct recruitment. In the parent rules the academic qualifications required for appointment to the Rajasthan Administrative Service are enumerated in Rule 12 as under:-

A candidate for direct recruitment must hold a degree in Engineering or Technology, arts, science, agriculture or commerce of a University established by law in India or of a foreign university declared by Government in consultation with the commission, to be equivalent of a degree of a university established by law in India.

Explanation: For the purpose of this rule a degree in arts, science does not include a degree in medicine.

It may be noted here that "degree in Engineering or Technology" have been added in the main part of Rule 12 by a notification dated June 29, 1962 and earlier thereto degree in Engineering or Technology" were included in the explanation along with the degree in Medicine & were thereby excluded from the requisite qualification prescribed for a candidate at the recruitment examination. It may also be pointed out in this context that the educational qualification for direct recruitment to the Indian Administrative Service as prescribed in Clause (4) of the Indian Administrative Service (Appointment by Competitive Examination) Regulations, 1955 is that a candidate should hold a degree of any University incorporated by an Act of the Central or State Legislature in India or other educational institutions established by an Act of Parliament or declared to be deemed as a University u/s 3 of the Universities Grant Commission Act, 1956 or a foreign university approved by the Central Government from time to time, or a qualification which has been recognised by the Central Government for purposes of admission to the said examination.

5. Thus so far as the Indian Administrative Service is concerned, a person holding a degree of any Indian University is eligible for appointment by the method of direct recruitment. However, in respect of regular recruitment to the Rajasthan Administrative Service, the explanation to Rule 12 of the parent rules expressly provides that the degree in medicine shall not be considered to be included in a degree in Science for the purposes of direct recruitment to the aforesaid Service. It is significant that the explanation appended to Rule 12 of the parent rules is conspicuously absent in Rule 11 of the Rules and it appears that the framers of the Rules for Emergency Recruitment made a deliberate departure from the rules prescribed for regular recruitment to the Rajasthan Administrative Service, by consciously omitting to enact the explanation appended to Rule 12 of the parent rules. The reason why the aforesaid explanation has been omitted while prescribing the qualifications for the Emergency Recruitment under the Rules is not far to seek. In the recruitment examination held for regular recruitment to the Rajasthan Administrative Service, Rule 18 of the parent rules provides that such examination shall be conducted by the Commission in accordance with the syllabus prescribed in Schedule III. Now Schedule III appended to the parent rules requires that every candidate must take three compulsory papers out of which one is of General English, another of English Essay and third relating to General Knowledge, and Every-day Science. Besides the three compulsory papers, every candidate is also required to appear at the written test in five of the optional subjects, out of those enumerated in the list contained in Schedule III of the parent rules. A perusal of the subjects included in the list of optional subjects in the said schedule shows that there is none relating to Medicine. It also appears that the subjects relating to Engineering and Technology have been added to the list of optional subjects contained in Schedule III of the parent rules after the amendment of Rule 12 of the said Rules was made by including the degrees in Engineering and Technology as requisite qualifications for a candidate for the regular recruitment examination. But in the case of emergency recruitment, which is to be held under the Rules, a candidate is not required to take any optional papers at the written test. Under Rule 19 of the Rules, eligible candidates are required to undergo written tests in three subjects only. The first paper will pertain to General English and English Essay, and paper II will be in respect of General Hindi and Hindi Essay, while paper III shall be in respect of General Knowledge, Everyday Science, and Current Affairs, and also relate to Rajasthan Culture, Language, Literature and History. There are thus no optional papers at the Emergency Recruitment Examination which may pertain to the specialised knowledge of any subject relating to Engineering, Agriculture or Commerce, nor any of the three compulsory papers at the said Examination are of such a nature which cannot be successfully undertaken by a Graduate in Veterinary Science or a Graduate in Medicine. As a candidate for the Emergency Recruitment Examination, 1976 will not have to undertake any optional paper, as such it appears reasonable that the framers of the Rules did not think it proper or necessary to provide the explanation in Rule 11 thereof like that appended to Rule 12 of the parent rules.

6. A degree in Science, which is the requisite qualification prescribed in Rule 11 of the Rules cannot be restricted to a degree in basic sciences only unless the language employed by the framers of the rule expressly so provided. Ordinarily the words used in an enactment are the true repository of the legislative intent According to the Webster's Third New International Dictionary "science" with reference to studies in Educational Institutions, means "any of the individual subjects taught at an educational institution in one of the departments of natural sciences" leaving aside the very broad meaning some times assigned to science as a system based on systematic study of a branch of knowledge, science is normally understood as a branch of study concerning the physical world and its phenomena. In Universities and other Educational institutions, science is normally used in contra-distinction with Humanities or Arts Thus while Literature, Philosophy, Drawing, Painting, Geography, History, Sociology etc. pertain to the studies in Humanities or Arts, the studies in Agriculture, Engineering, Medicine, Veterinary Science Technology and allied matters are parts of the studies in Science In these circumstances, in the absence of a specific prohibition, it would be difficult to restrict the words "Degree in Science" to a degree in basic sciences alone, as a degree in Agriculture or Veterinary Science or Food Technology or Dairying or various branches of Engineering or for that matter in Medicine or Surgery are as much degrees in Science as a degree in Physics or Chemistry. A degree in Science should be understood as a degree in Natural Sciences, as distinguished from a degree in Arts or Commerce. Thus a degree in Science embraces within its fold a degree in any branch of study in Natural Sciences, including the Veterinary Science because "Science" as a matter of fact is a compendious expression for studies in various branches of natural sciences. It will be anomalous to held that a degree of B.Sc. with Ecology as a subject of study is a degree in Science but a degree in Medicine or in Surgery is not a degree in Science. Similarly a degree in Science with Botany as a subject cannot for that purpose be distinguished from a degree in Agriculture, which have several common subjects of studies.

7. I have also looked into the Hand Books of various Universities of this State to find out as to whether a degree in Science could, be distinguished from a degree in Veterinary Science so far as the capability of the candidate "holding such a degree as a graduate is concerned. The University of Udaipur grants degrees specified in Statute 55. Leaving other degrees, the Udaipur University awards the degrees of B.Sc. (Agriculture), B.Sc (Dairying), B.Sc. (Poultry Science), B.Sc (Agricultural Education). B.Sc. (Food Technology) B.Sc. (Agricultural Engineering), B.V.Sc. & A.H.B.Sc. (Pass) and B.Sc. (Honours); Post-Graduate degrees are awarded by the said University as M.Sc. (Agriculture), M.Sc. (Dairying), M.Sc. (Agricultural Engineering), M.Sc. (Home Science), M.Sc. (Animal Husbandry), B.V.Sc, & M.Sc. besides others If the provisions of Rule 11 of the Rules are to be interpreted in such a manner as to exclude other degrees except those specifically mentioned in that rule, then the degree of B.Sc (Dairying), B.Sc (Poultry Science), B.Sc (Agricultural Education), B.Sc (Food

Technology). & B.Sc. (Agricultural Engineering) awarded by the University of Udaipur would not be recognised for recruitment to the Rajasthan Administrative Service in the Emergency Recruitment of 1976 or for that matter even for the regular recruitment to the Rajasthan Administrative Service under the parent rules Although the aforesaid degrees pertain to subjects akin to Agriculture, yet strictly speaking they are not degrees in Agriculture A further anomalous situation would arise in as much as a person holding the degree of M.Sc (Animal Husbandry) or M.Sc (Agricultural Engineering) or M.Sc (Dairying) would be excluded from undertaking the Rajasthan Administrative Service Recruitment Examination as he cannot be said to hold the M.Sc or M.Sc (Agriculture) degree.

8. Similarly the degrees awarded by the Rajasthan University are enumerated in statute 39 which provides that the University may confer among others the degrees of B.Sc (Pass) and (Hons) B.Sc (Home Science), B.Sc (Agricultural Education), B.V.Sc. & A.H.B.Sc. (Pharmacology), B.Sc. (Nursing), and M.B.B.S., B.Sc. (Ag) Now strictly speaking, if the degree in Science is considered to be restricted to a degree in basic Sciences and a degree in Agriculture is similarly restricted to one in Agriculture only and the degree in Engineering is also restricted to a degree in Engineering alone, then a person holding a degree of B.Sc. (Agricultural Education) would be excluded as also a person holding a degree in Veterinary Science or a degree in Medicine or for that matter even a person holding a degree in Pharmacology. Even a candidate holding a B.Sc degree in Home Science would have to be excluded, as it is not a pure B.Sc degree.

9. The submission of the learned Additional Government Advocate in this respect is that it is open to the authority prescribing the qualifications to restrict the admission to the recruitment examination to persons possessing specified qualifications, and the employer is empowered to prescribe whatever qualifications he considers necessary for particular post. It is difficult to accept the broad proposition sought to be propounded by the learned Additional Government Advocate because in matters of public services a classification in respect of educational qualifications can be made keeping in view the object sought to be achieved by such classification. It can be understood that with a view to achieve administrative efficiency in the State Administrative Service or to attract the best talent available for such service particular qualification may be prescribed by the State. However, it shall be a matter of judicial scrutiny likewise as to whether the classification made by the State, while prescribing such qualifications; rests on a reasonable basis and whether it bears a nexus with the object sought to be achieved However, it is not necessary for me to pursue the matter further and consider the question of reasonableness of classification in these cases, as it has not been submitted by the petitioners that the provisions of Rule 11 of the Rules suffer from the vice of discrimination. What I am called upon to consider, therefore, is as to whether the degree in Science, which has been specified in Rule 11 of the Rules, excludes the degree in Veterinary Science or for that matter a degree in Medicine, merely because the degree in Veterinary

Science or a degree in Medicine have not been particularly mentioned in Rule 11.

10. I have already pointed out above that if the qualification prescribed in Rule 11 is considered to be strictly restricted to the degrees in Arts, Science, Engineering, Agriculture or Commerce, then anomalous situations would be caused as a person holding a degree in Agricultural Education or in Dairying or Poultry Science or even a degree in Home Science, would be excluded from recruitment, in the same manner as a person holding a degree in Veterinary Science or a degree in Medicine. In my humble view the words "Engineering and Agriculture" used in Rule 11 are merely illustrative of a degree in Science and are not restrictive, other wise a person holding a degree in Technology, he would be eligible under Rule 12 of the parent rules to appear at a regular recruitment of the Rajasthan Administrative Service by undertaking to appear in the compulsory papers as well as five optional papers, would nevertheless be excluded from appearing for the emergency recruitment of 1976 merely because Technology has not been specifically mentioned in Rule 11 along with Engineering. In my view, it is significant that the explanation to Rule 12 of the present rules has been knowingly omitted and it does not find place in Rule 11 of the Rules, which denotes a clear intention on the part of the rule makers that the holder of a degree in Medicine, who was otherwise barred from appearing at the recruitment examination of the Rajasthan Administrative Service at a regular recruitment under the parent rules, because of the explanation appended to Rule 12 thereof would not now be barred from appearing at the Emergency Recruitment Examination of 1976, which is going to be held under the Rules. There is no explanation available on the record for the conscious departure from the parent rules in this respect nor any plausible explanation has been offered by the learned Additional Government Advocate in that behalf for the omission of the Explanation from Rule 11. To my mind there does not appear any reasonable basis for holding that a person having a degree in Science or Engineering may be eligible for becoming an Administrator, after entering the Rajasthan Administrative Service by direct recruitment, but a person holding a degree in Veterinary Science, which is one of the Science or which rather constitutes a specialised study of one branch of Science, would be ineligible for that purpose. In this view of the matter, I hold that a degree in Veterinary science is also a degree in Science for the purposes of Rule 11 of the Rules and a person holding such a degree can not be excluded from the Emergency Recruitment Examination conducted by the Commission under the Rules.

11. For the foregoing reasons, both the writ petitions are allowed. The respondents are directed to allow both the petitioners to appear at the recruitment examination held under the Rajasthan Administrative Service (Emergency Recruitment) Rules, 1976 for appointment to the Rajasthan Administrative Service, in case they are otherwise found eligible. It is hereby made clear that the petitioners shall not be debarred from undertaking the Emergency Recruitment Examination, 1976 of the Rajasthan Administrative Service, under the aforesaid Rules on the ground that they do not fulfil the

educational qualification prescribed in Rule 11 thereof. In the circumstances of the case, the parties are left to bear their own costs.