
(1985) 04 SHI CK 0012

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petitions No's. 10 and 11 of 1985

Joginder Kumar Nanda and Daya Chand Thakur

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 18-04-1985

Acts Referred:

Citation : (1985) 14 ILR HP 221

Hon'ble Judges : P.D. Desai, C.J;R.S. Thakur, J

Bench : Division Bench

Advocate : Chhabil Dass, for the Appellant; P.N. Nag, General and D.K. Khanna, Advocate, for the Respondent

Final Decision : Allowed

Judgement

P. D. Desai, C. J.

1. The Petitioner in Civil Writ Petition No. 10 of 1985 is holding the post of Assistant Seed Testing Officer, State Seed Testing Laboratory, Solan. The said Petitioner holds B.Sc. (Agriculture and Animal Husbandry) degree and M.Sc. (Bio-Chemistry) degree given by the Punjab Agricultural University, Ludhiana in the year 1967 and 1969 respectively. The Petitioner in Civil Writ Petition No. 11 of 1985 is holding the post of Project Officer, Intensive Agricultural District Programme, Mandi. He holds B.Sc. (Agriculture) degree with Honours given by the Delhi University in 1958. In 1965, he obtained the degree of Master of Science in Entomology from the Indian Agricultural Research Institute, New Delhi, which is deemed to be a University for the purposes of the University Grants Commission Act, 1956.

2. Two posts of Project Officers (Deputy Directors of Agriculture) Class-I were advertised by the Himachal Pradesh Public Service Commission (hereinafter to be referred as "the Commission") on March 1, 1984. Recruitment to the said post is governed by the Himachal Pradesh Agricultural Services Class-I Recruitment and Promotion Rules, 1973 (hereinafter to be referred as "the Rules"). The Rules

prescribe the following eligibility qualifications for the posts of Deputy Directors of Agriculture/Deputy Director of Agriculture (Potato and Marketing)/Project Officers (IGAP) and (IDAP)/Principal, GSTCetc:

Essential:

(i) Master's degree in Agriculture/Agronomy/Chemistry/Agriculture Engineering/Agriculture Economics/ Soil Science/Agriculture Chemistry or Associateship of IARI in any of these Branches.

(ii) 5 years" experience in Farm Management/Agronomy/ Agriculture Extension/ Soil Conservation Work/ Agriculture Marketing/Research of Soil Science/ Agriculture Chemistry/Bio-Chemistry.

Desirable:

(i) Ph. D. degree in any Branch of Agriculture/Economics Chemistry.

(ii) Knowledge of customs, manners and dialects of Himachal Pradesh and suitability for appointment in the peculiar conditions prevailing in the Pradesh.

As far as the sources of appointment are concerned, the Rules prescribe that 50 % of posts shall be filled in by promotion and 50% by direct recruitment. On the present occasion the posts were required to be filled in by direct recruitment and hence the advertisement.

3. Both the Petitioners made applications pursuant to the advertisement aforesaid. Since the Petitioners were not called for interview, they made enquiries at the office of the Commission and were informed that they were not eligible since they did not possess Master's Degree in Agriculture or in any of the specialities mentioned in the relevant recruitment rules.

4. The Petitioners thereupon instituted these two petitions on January 2, 1985. On January 3, 1985, Rule nisi was issued. The Petitioners were directed to file affidavits of experts in the subjects to justify their claim that the post-graduate degrees obtained by them fell within the prescription of the relevant. recruitment rule. By an interim order separately made on the same day in each case, a direction was issued that the Petitioners should be interviewed for the posts in question without accrual of any right to them to claim any benefit solely on that account. The selection made by the Commission was directed to be kept in a sealed cover till further orders. On March 12, 1985, the State Government was directed to file an affidavit-in-reply in each case setting forth its submissions in regard to the true interpretation of the relevant recruitment rule bearing in mind all the relevant aspects and after taking into consideration the material placed on the record of the case. An affidavit-in-reply together with a supplemental statement has accordingly been filed in each case on behalf of the State Government. No affidavit-in-reply has been filed on behalf of the Commission.

5. The question arising for determination in these two petitions relates to the true interpretation of the recruitment rule in question in so far as it prescribes

the eligibility qualifications. The precise question is whether the Petitioner in Civil Writ Petition No. 10 of 1985, who holds the degree of Master of Science (Bio-Chemistry) and the Petitioner in Civil Writ Petition No. 11 of 1985, who holds the degree of Master of Science in Entomology, satisfy the eligibility qualifications as prescribed.

6. At the hearing of the petitions, it was strenuously urged on behalf of the Commission that on a true and proper interpretation of the relevant recruitment rule, the Petitioners are not eligible to be considered for appointment to the posts in question. The precise submission was that only those candidates, who possess a Master's degree in (i) Agriculture (ii) Agronomy (iii) Chemistry (iv) Agriculture Engineering (v) Agriculture Economics (vi) Soil Science (vii) Agriculture Chemistry or (viii) Associateship of IARI in any of these branches, can be regarded as eligible in terms of the recruitment rule in question and that since the Petitioners did not possess a Master's degree in any of the above-mentioned subjects/faculties/disciplines/ specialities, they are not eligible to be considered for appointment.

7. The stand of the State Government is at variance with that of the Commission. In its affidavits-in-reply it is clearly stated that: (a) so far as the Master's degree in Bio-Chemistry is concerned, a candidate possessing such degree would be eligible since Bio-Chemistry is one of the disciplines of Chemistry which is specifically mentioned in the recruitment rule and (b) though Entomology is not specifically mentioned as one of the disciplines/subjects/faculties/specialities in the concerned recruitment rule, a candidate possessing a Master's degree in the said subject is also eligible since Entomology is one of the branches "of agriculture science.

8. Annexed to each affidavit is an identical statement which furnishes certain valuable data. The relevant portion of the statement is extracted herein below:

.... the provisions in the Recruitment and Promotion Rules do not indicate all the branches of the Agriculture Sciences specifically though some have been made clear. In the present system of Education, the Master's degree is given in the line of specialisation under all the Agricultural Sciences. The Master's degrees in Agriculture is now not being awarded and the Master's degree is awarded in the line of specialisation of all the subjects of Agriculture Sciences.

The main subjects of study and the major areas of activity/specialisation within each main subject in which instruction is offered at the Post-Graduate level leading to the M.Sc. and Ph.D. degrees, are as follows:

1. Agricultural Economics.-Farm Management and Production Economics, Agricultural Marketing and Prices, Agricultural Finance and Co-operation and Agricultural Economics.
2. Agricultural Engineering.-Soil and Water Conservation Engineering and Farm Power and Equipment.

3. Agricultural Extension.-Agricultural Extension, Agricultural Communication, Rural Sociology and (Home Science Extension for M.Sc. only).
4. Agricultural Physics.-Agricultural Physics.
5. Agricultural Statistics.-Sampling Techniques, Design of Experiments and Genetical Statistics.
6. Agronomy.-Crop Husbandry and Soil and Water Management.
7. Bio-Chemistry.-Bio-Chemistry, Nutrition and Molecular Biology.
8. Entomology.-Insect Taxonomy, Insect Ecology, Insect Toxicology, Insect Parasitology, and Insect Physiology.
9. Genetics.-Plant Breeding and Genetics and Cytogenetics. ,
10. Horticulture.-Pomology, Olericulture, Fruit and Vegetable Preservation and Floriculture.
11. Microbiology.- Soil Microbiology, Algology and Agricultural Bacteriology.
12. Mycology and Plant Pathology.-Mycology, Plant Pathology, Plant Bacteriology and Plant Virology.
13. Nematology.-Nematology.
14. Plant Physiology.-Plant Physiology.
15. Soil Science and Agricultural Chemistry.-Soil Science and Agricultural Chemistry.

The provision in the Recruitment and Promotion Rules has been made keeping in view the manner in which the degree was being awarded previously and the intention was to cover all the subject of Agriculture Sciences by writing master's degree in Agriculture. The person having master's degree in one of the subject of Agricultural Science as mentioned above are eligible for appointment as Deputy Director of Agriculture within the ambit of Recruitment and Promotion Rules.

Keeping in view the above position, it is clear that Entomology is one of the branch/discipline of Agriculture Science and the persons having this degree falls within the provision of the rules.

Similarly Bio-Chemistry is one of the Branch/discipline of Agriculture Science/ Chemistry and the persons having this degree also falls within the provision of the rules.

9. The Petitioner in each case has also placed on record relevant material having a direct bearing on the question under consideration.

10. In Civil Writ Petition No. 10 of 1985, the following material is placed on record:

(i) Certificate dated 11-2-1985 of Dr. A. N. Kaushal, Associate Professor, Department of Forestry and Member, Board of Management of Himachal Pradesh Krishi Vishva Vidyalaya, Solan, Annexure P-F/1.

(ii) Certificate dated 7-2-1985 of Dr. P. S. Kalsi, Professor and Head, Department of Chemistry, Punjab Agricultural University, Ludhiana, Annexure P-FI2.

(iii) Certificate dated 7-2-1985 of Dr. P. S. Sukhija, Associate Professor, Department of Biochemistry, Punjab Agricultural University, Ludhiana, Annexure P-FI3.

(iv) Proceedings of the 81st meeting of the Board of Studies, College of Basic Science and Humanities, Punjab Agricultural University, Ludhiana, held on 20th February, 1985, Annexure P-F/A.

11. The certificate, Annexure P-F/1, is to the following effect:

....Biochemistry is a branch of main discipline of chemistry. While doing his M.Sc. Biochemistry degree, he studied courses mostly from the discipline of chemistry and the same is evident from his transcript of his M.Sc. programme. Therefore, his course work and research training at the M.Sc. level falls within the category "Chemistry"?

12. The certificate, Annexure P-F/2, states as follows:

... Biochemistry is a branch of main discipline of Chemistry. During his M.Sc. degree programme (1967-69) an integrated course of Chemistry and Bio-chemistry was used to be taught to Post Graduate students under the Department of Chemistry-Bio-chemistry for the degree of M.Sc. Bio-chemistry. He studied courses mainly from the discipline of Chemistry while doing his M.Sc. Bio-chemistry degree which is quite evident from his transcript of M.Sc. programme.

Therefore his course work and Research training at the M.Sc. level falls within the category "Chemistry"

He can seek admission to Ph. D. course in Chemistry or Bio-chemistry.

13. The certificate, Annexure P-F/3, is in the following terms:

.....The discipline of Bio-chemistry is a branch of Chemistry. While doing M.Sc. Bio-chemistry degree, he studied courses mostly from the discipline of Chemistry and the same is evident from his transcript of M. Sc. programme. An integrated course of Chemistry and Bio-chemistry used to be taught to Post Graduate students under the then Department of Chemistry-Bio-chemistry for the degree of M.Sc. Bio-chemistry.

I further declare that for purposes of admission to Ph D. course in Chemistry or Bio-chemistry and recruitment in this University, M.Sc. Bio-chemistry is considered same as M. Sc. Chemistry. Therefore, his M. Sc. Bio-chemistry degree falls under the category "Chemistry".....

14. The Proceedings of the Meeting of the Board of Studies, College of Basic Sciences and Humanities, Annexure PFj4, record at item No. 2 as follows:

The Board approved that M.Sc. Bio-chemistry degree of Shri Joginder Kumar Nanda as equivalent to M.Sc. Chemistry.

15. In Civil Writ Petition No. 11 of 1985, the following relevant material is placed on record:

(i) Affidavit of Dr. M. R. Thakur, Pro-Vice Chancellor, Himachal Pradesh Krishi Vishva Vidyalaya, Palam-pur, dated 2-3-1985, Annexure P-E/1..

(ii) Affidavit of Dr. G. S. Dogra, Professor and Head, Department of Entomology and Agriculture and Dean, College of Agriculture, Himachal Pradesh Krishi Vishva Vidyalaya, Solan, dated 1-3-85, Annexure P-E/2.

(iii) Certificate No. 5651, dated 4-3-85 from the Dean, College of Agriculture, Punjab Agricultural University Ludhiana, Annexure P-EI3.

(iv) Letter dated 1st March, 1985 received from Shri P. Sukumaran, Registrar (Academic), Post Graduate School, Indian, Agricultural Research Institute, New Delhi, Annexure P-EI4.

(v) Letter dated 5th March, 1985, from Shri R. L. Mungal, Emeritus Scientist, Division of Ecology and Plant Pathology, Indian Agricultural Research Institute, New Delhi, Annexure P-EI6.

(vi) Certificate dated February 22, 1985 of the Dean, College of Agriculture, Punjab Agricultural University, Ludhiana, Annexure P-E/7.

16. The affidavit, Annexure P-E/1, contains the following material recitals:

.... That there are about fifteen disciplines or subjects under agriculture and all of them are taught upto graduation level and post-graduation (Master's degree) is done only in one subject. As such, M. Sc. in Entomology, or in any other branch of agricultural sciences, is the same as M.Sc. Agriculture with specialization in the respective field.

That P.G. School under I.A.R.L, New Delhi, which is an agricultural Institute awards degrees only in agricultural sciences. Hence M.Sc. (Entomology) or any other subject is more appropriate than only M.Sc. Agr., which degree is not awarded by any University or Agricultural Institute in India. The Degree has to be in a particular discipline of Agriculture.

17. In the affidavit, Annexure P-E/2, the following is found- to have been stated:

... That in Himachal Pradesh Krishi Vishva Vid- yalaya, College of Agriculture, Solan, includes the following disciplines:

1. . Pomology and Fruit Technology

2. Vegetable Crops & Floriculture

3. Mycology & Plant Pathology

4. Entomology & Apiculture and that masters degree is always in one of the aforesaid branches (disciplines) as the candidate chooses. The master's degree awarded in any of these branches is the same as M.Sc. degree in Agriculture.

I further declare that for purposes of admission to Ph.D. programme, or for purposes of recruitment in this Krishi Vishva Vidyalaya, M.Sc. Entomology, IARI is considered same as M.Sc. Agriculture (Entomology).

18. The certificate, Annexure P-E/3, recites as follows:

It is certified that M.Sc. degree is awarded by the Punjab Agricultural University in various disciplines like Agronomy, Soil ? Sciences, Plant Pathology, Horticulture, Plant Breeding, Entomology, etc. Earlier, when this college was affiliated with the Panjab University, the degree awarded was M.Sc. Agri. (respective discipline), which included disciplines like Agronomy, Soil Sciences, Plant Pathology, Horticulture, Plant Breeding, Entomology, etc.

This certificate is being issued to certify that the M.Sc. Agri. degree mentioning discipline in parenthesis and M.Sc. degree in the respective discipline of agriculture are equivalent.

19. The material portion of the letter, Annexure P-EI4, reads asunder:

.... Indian Agricultural Research Institute awards M.Sc. and Ph.D. Degrees in various disciplines of Agricultural Sciences. The M.Sc. degree in Entomology awarded to Shri D. C. Thakur is in Agricultural Entomology.

If the Intention is to treat M.Sc. (Entomology) as equal to M.Sc. (Agri.), necessary amendment may be considered in the relevant Recruitment Rules.

20. The letter, Annexure P-E/6, reads as follows:

With reference to your enquiry whether M.Sc. (Agri.) degree awarded by the Indian Universities (including Agricultural Universities) is equivalent to M.Sc. degree of the Indian Agricultural Research Institute, I have to state M.Sc. of IARI is superior to M.Sc. (Agri.).

21. The certificate, Annexure P-E.7, is in the following terms:

Certified that Entomology is one of departments of College of Agriculture and is one of the disciplines of Agriculture Science.

22. The controversy between the Petitioners on one hand and the Commission on the other requires to be resolved in light of the extremely useful and relevant material aforesaid and the precise terminology of the relevant provision of Rules.

23. The cases of the two Petitioners stand on a slightly different footing and they are not identical in all respects. The Petitioner in Civil Writ Petition No. 10 of 1985, who possesses the degree of Master of Science (Bio-Chemistry), is on a

some what better footing. The material on record clearly indicates that Bio-Chemistry is a branch of the main discipline of Chemistry, that at the relevant time a post-graduate degree programme in M.Sc. (Bio-Chemistry) involved an integrated course of Chemistry and Bio-Chemistry and that the course work and research training for the said degree pertained mostly to the discipline of Chemistry. The academicians and experts in the concerned subjects and indeed the Board of Studies of the University which conferred the degree on the Petitioner have in terms opined that M.Sc. (Bio-Chemistry) degree obtained by him is equivalent to M.Sc. (Chemistry). Even though, therefore, Chemistry and Bio-Chemistry may not mean the same thing and one may be regarded as a speciality and the other as a super-speciality, against the background aforesaid, it would be giving too narrow and restrictive a meaning to the relevant recruitment rule to hold as ineligible a person who possesses a Master's degree in Bio-Chemistry, when a Master's degree in Chemistry is therein recognised as the eligibility qualification. So far as the said Petitioner is concerned, therefore, in our opinion the case does not present much difficulty since it does not require an elaborate interpretative exercise. For the foregoing reasons, the decision of the Commission holding him ineligible cannot be sustained.

24. As regards the Petitioner in Civil Writ Petition No. 11 of 1985, who holds the degree of Master of Science in Entomology, the question of interpretation squarely arises. The fact that the discipline of Entomology is not specifically mentioned in the recruitment rule under consideration cannot be gainsaid. At the same time it cannot be overlooked that a Master's degree in Agriculture is a prescribed eligibility qualification. The question for determination, therefore, is whether on a true and correct interpretation of the recruitment rule in its proper perspective, context and collocation, the degree of Master of Science in Entomology can be regarded as falling within the prescription of the rule.

25. The material on record indicates that: (a) the science of agriculture is composed of about fifteen disciplines or specialities, (b) Entomology, which deals with insects and their beneficent and malefic effects on crops etc., is one of such disciplines or specialities, (c) instruction is imparted in all these various disciplines or specialities and all of them are taught only upto the level of graduation, (d) at the level of post-graduate studies, however, intensive training and study in one of the disciplines or specialities has to be undertaken and the post-graduate degree also is now awarded only in one of such specialised subjects and (e) such post-graduate degree is in substance and reality a Master's degree in Agriculture or same or similar to it. On the basis of the statement annexed to the affidavit filed on behalf of the State Government, an extract of which has been reproduced above, and in view of the extracts from the certificates, letter etc. annexed to the petition, it appears, incontrovertible that Entomology is a discipline or speciality which has a direct relationship with the science of agriculture and that the equipment gained as a result of its intensive study has an important role to play in the field of agriculture. Education at post-graduate level leading to the award of a Master's degree in Entomology is thus

to be regarded as an intensive study of a subject or branch of the science of agriculture. A Master's degree in Entomology (can, therefore, be justifiably considered as falling within the broad coverage or umbrella of a post-graduate degree in the science of agriculture.

26. Now, the recruitment rule in question recognises a "Master's degree in Agriculture" as an eligibility qualification. To give to the said expression a literal meaning would be to render it otiose and inapplicable in the context of the prevalent educational system at post-graduate level where the study is confined to a speciality and the award of a Master's degree in Agriculture, as such, is not in vogue. Those words must, therefore, be understood in the sense in which they best harmonise with the subject, object and context and according to the meaning that would be assigned to them by the persons conversant with the concerned field of study. Besides, the expression a "Master's degree in Agriculture" has a wide import since it is not qualified or coloured by any inhibitory prescription. Against the backdrop aforesaid, those words must reasonably be regarded as comprehending a Master's degree in any of the specialities in the science of agriculture. True it is that in the words which follow the recruitment rule has specified certain specialities and has made persons holding a Master's degree in any of those enumerated specialities expressly eligible. In our opinion, however, the specification of degrees in those enumerated specialities has not the effect of confining or restricting the eligibility to the holders of such degrees alone. Such specification of a few of the specialities is illustrative and not exhaustive in character and such enumeration is not to be regarded as closing the categories or limiting the coverage of the rule to the named disciplines. This is manifestly clear from the use of the preceding general expression, namely, "Master's degree in Agriculture" which on a true construction is wide enough to comprehend, as earlier held, a post-graduate degree in all or any of the specialities of the science of agriculture. To give a restricted meaning to the said general expression by reference to the words which follow or to confine the operation of the recruitment rule only to the specified disciplines may in the absence of relevant date, lay open the rule to a challenge on the ground of arbitrary picking and choosing of specialities while prescribing the eligibility qualifications. Such a construction must be eschewed. The fact that the State Government which has framed the Rules is also of the view that a person holding a Master's degree in Entomology would be eligible has its own significance. When the framers of the Rules themselves regard the rule as such, ordinarily, there would be no justification to give it a restricted meaning. The rule of "executive construction" may not strictly be attracted in the present context. Still, however, the view which the framers of the Rules hold in the matter cannot be altogether ignored. In our opinion, therefore, the Commission's decision holding this Petitioner ineligible cannot also be sustained.

27. For the foregoing reasons, both the petitions are allowed. The Petitioner in each petition is held eligible to be considered for appointment to the posts in question. Each of the Petitioner was allowed and has appeared at the interview

held by the Commission. The Commission will now proceed with the selection procedure in accordance with law after opening the sealed cover. Rule made absolute in the aforesaid terms with no order as to costs.

28. Before parting with the matter, the Court considers it appropriate to observe that recruitment rules concerning posts in specialised subjects should be framed more precisely so that avoidable litigation does not ensue. In the present case, the State Government may consider appropriate amendment to the relevant recruitment rule(s) before the next recruitment takes place. A copy of the judgment be sent to the Secretary (Agriculture) under the seal of the Court and signature of the Registrar.