
(1987) 10 KL CK 0004

In the High Court Of Kerala

Case No : W.A. No's. 13, 47 and 110 of 1985

L. Ratnabai and Others

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 24-10-1987

Acts Referred:

Citation : (1988) 1 KLJ 22

Hon'ble Judges : V. S. Malimath, C.J.;V. Bhaskaran Nambiar, J

Bench : Division Bench

Advocate : C. K. Sivasankara Panicker, T. R. Raman Pillai, P. B. Mohan Kumar and Government Pleader, for the Appellant; N. Muralidharan Nair, for the Respondent

Final Decision : Allowed

Judgement

Malimath, C. J.

1. These three appeals are by the original respondents Nos. 5, 4 and 1 respectively challenging the judgment of the learned single Judge in O. P. No-664/84. The relevant facts necessary for the disposal of these appeals may briefly be stated as follows For the sake of convenience we shall advert to the parties with reference to W. A. No. 13/85. Respondent No. 5 and the appellant were both working as High School Assistants (Hindi)- It is not disputed that the appellant is junior to the 5th respondent. When the vacancy of the Headmaster of the High School occurred the 5th respondent though senior to the appellant, was found to be ineligible and therefore the appellant was promoted as Headmistress The said promotion was approved on 9-9-1981. The 5th respondeat challenged "he same by way of appeal before the Deputy Director of Education. The said authority dismissed the appeal on 28-10-1983 by Ext. P1. It is in this background that the 5th respondent filed O. P. No. 664/84 challenging the promotion of the appellant and the dismissal of his appeal by Ext. P1. The learned single Judge has allowed the original patition, quashed Ext. P1 and the authorities are directed to take appropriate steps on the basis that the 5th

respondeat was duly qualified for promotion to the cadre of Headmaster. It is the said decision that is challenged in this appeal. The educational qualifications are prescribed for the post of Headmaster by rule 2 of Chapter XXXI, the relevant portion of which reads

High Schools:

(1) Headmaster:

A Degree in Arts or Science and B.Ed/B.T/L.T. conferred or recognised by the Universities in Kerala....."We have considered it unnecessary to advert to the other qualifications which are required to be satisfied for a person to become eligible for Headmaster such as service qualifications etc-under rule 44A of Chapter XIV-A, the same being unnecessary for the disposal of these cases. Whereas the appellant possesses all the prescribed educational qualifications about which there is no controversy, the authorities have proceeded on the basis that so far as the 5th respondent is concerned that he does not possess the requisite educational qualifications. The 5th respondent holds a degree in Arts but he does not possess BEd/BT/LT qualifications. He however possesses the qualification of Hindi Sikshan Parangath of Kendriya Hindi Sikshan Mandal, Agra (hereinafter referred to as "parangath). The authorities took the view that parangath qualification possessed by the 5th respondent cannot be regarded as a qualification equivalent to B.Ed/B.I./LT conferred or recognised by the Universities in Kerala. It is on that basis it was held that for want of this requisite educational qualification the 5th respondent, though senior cannot be considered for promotion. The 5th respondent however took the stand that paragraph qualification has been recognised by the Calicut University and that therefore he must be regarded as possessing the requisite educational qualifications as well. The authorities admit that parangath qualification has been recognised by the Calicut University as equivalent to to the B.Ed, degree of the Calicut University. But the authorities felt that it is not enough that the recognition is accorded by the Calicut University, as, in their view, the qualification was required to be recognised also by the Kerala University within whose area of operation the school in question is located. The learned single Judge has held that though the expression used in rule 2 is "recognised by the Universities in Kerala", it is enough if the recognition is accorded by any one of the Universities in Kerala. Having regard to the context, we are inclined to agree with the view taken by the learned single Judge that the expression "conferred or recognised by the Universities in Kerala" must be understood as conferred or recognised by any of the Universities in Kerala. If that is not how rule 2(1) is understood it will lead to absurd situations. There are other Universities like the Cochin University and the Agricultural University in the State which do not import any instruction in the subject of education or teaching. Such Universities will therefore have no occasion at all to recognise degrees like B.Ed or P.T. or L.T. We have therefore no hesitation in agreeing with the view taken by the learned single Judge that the recognition contemplated by rule 2 is recognition by anyone of the Universities in

Kerala.

2. But it was contended by the learned Government Pleader appearing for the appellant in W.A.No. 110/85 that the recognition contemplated by rule 2 is not of any qualification but recognition of the qualification bearing the letters B.Ed or B.T. or L.T. As admittedly the 5th respondent does not possess B.Ed or B.T. or L.T. the question of recognition does not arise in this case What has been recognised by the Calicut University is not B.Ed or B.T. or L.T. but the Hindi Sikshan Parangat examination of the Kendriya Hindi Sikshan Mandal, Agra. The expression "B.Ed, B.T or L.T. conferred or recognised by the Universities in Kerala", on a plain reading of the same indicates that the conferment or recognition contemplated is of the qualification described by the letters B. Ed or B.T or L.T. and not qualification described by any other letters When the rule making authority intended that the letters by which the qualification is described is not relevant but what is relevant is the subject in which instruction has been given, it has used a different expression altogether in rule 2 (3) (c) of Chapter XXXI of the rules. So far as the music teachers are concerned the qualification prescribed is "Graduation in Music conferred or recognised by the Universities in Kerala". It is obvious that sofaras graduation in music is concerned, the same is not described with reference to any letters as such. Similar is the position Sofaras language teachers are concerned, the qualification in respect of whom is prescribed in rule 3 (2) (i) of Chapter XXXI as "a degree in Sanskrit conferred or recognised by the Universities in Kerala". If the rule making authority felt that a graduation in education or teaching was what was contemplated, they would have used the expression "graduation in education or teaching" instead of using the expression "B.Ed or B. T. or L.T. It is therefore obvious that the recognition contemplated is of the qualification described by the letters B.Ed or B. T. or L.T. and not qualification described in any other manner. If it was the intention of the rule making authority that irrespective of the nomenclature any qualification recognised as equivalent to the qualification should also be one of the prescribed alternate qualifications it would have used the expression "or its equivalent". Such expression has been used in rule 2 (3)(c) of Chapter XXXI regarding music teachers in regard to prescription of a pass in S.S.L.C. Examination conducted by the Commissioner for Government Examinations, Kerala. The prescription therein is "or its equivalent". The expression "or its equivalent" has been employed in the rules whenever the rule making authority intended to prescribe the equivalent qualifications. If it was the intention of the rule making authority to prescribe equivalent qualifications also as qualifications it would have used "or its equivalent". The fact that the rule making authority has not prescribed any equivalent qualification but has prescribed only a qualification recognised by a University in Kerala significantly suggests that the recognition must be only of the qualification described by the letters B.Ed or B.T. or L.T. Sofaras the parangat qualification is concerned it is not as though the rule making authority was not aware of the same. It has been prescribed as one of the qualifications for the post of High School Assistants (Hindi). Rule 2(b)(iv) reads as follows:

B. Training Qualifications,

B. Ed/B.T/L.T. conferred or recognised by the Universities in Kerala, or Diploma or Certificate of Language Teachers Training in Hindi issued by the Commissioner for Government Examinations, Kerala:

Diploma in Hindi Teachers' Training issued by the Commissioner for Government Examinations, Kerala or

A pass in any one of the following examinations of the Kendriya Hindi Sikshan Mandal, Agra, namely:

(i) Hindi Siksha Praveen

(ii) Hindi Sikshan Parangath

(iii) Hindi Sikshan Nishant.

The rule making authority was aware of the existence of the qualification Hindi Sikshan Parangath conferred by the Kendriya Hindi Sikshan Mandal, Agra. After assessing the nature of the said qualification it was prescribed as one of the alternate qualifications for B.Ed/ B.T or L.T. conferred or recognised by the Universities in Kerala for the post of HSAs. If the rule making authority which was aware of the Hindi Sikshan Parangath qualification and had prescribed it as one of the alternate qualifications for the lower post of High School Assistants in Hindi it would not have found it difficult to prescribe it as one of the alternate qualifications for promotion to the cadre of Headmasters, if in its opinion the said qualification could be regarded as an alternate qualification to B.Ed or B.T. or L.T. If Hindi Sikshan Parangath was really regarded by the rule making authority as equivalent to B.Ed or B.T or L.T. then it need not have treated the said qualification as an alternate qualification. The way in which the rule making authority has dealt with this particular qualification of Hindi Sikshan Parangath legitimately leads to the inference that the rule making authority was of the opinion that Hindi Sikshan Parangath was not equivalent to B.Ed or B.T. or L.T. qualification for the purpose of eligibility for the post of Headmasters. We have therefore no hesitation in taking the view that it is only B.Ed or B.T. or L.T. that is recognised by any one of the Universities in Kerala that is contemplated and not a qualification which is recognised as equivalent to B.Ed or B.T or L.T. qualification conferred by any one of the Universities in Kerala.

5. As admittedly the 5th respondent does not possess the qualification of B.Ed or B.T. or L.T. the fact that the parangath qualification has been recognised by the Calicut University is not sufficient to render him eligible for the post of Headmasters under the rules. The ultimate decision of the authorities in promoting the appellant in preference to the 5th respondent cannot therefore be regarded as wrong.

For the reasons stated above these appeals are allowed, the judgment of the learned single Judge is set aside and O. P. No. 664/84 is dismissed. In the

circumstances parties shall bear their respective costs.