
(2004) 03 AHC CK 0201
In the Allahabad High Court
Case No : Special Appeal No. 214 of 2004

Mahendra Pratap Singh and Another	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 03-03-2004

Acts Referred:

Citation : (2004) 3 AWC 2182

Hon'ble Judges : Ghanshyam Dass, J;B.S. Chauhan, J

Bench : Division Bench

Advocate : R.N. Yadav, for the Appellant;

Final Decision : Allowed

Judgement

B.S. Chauhan, J.—This Special Appeal has been preferred against the judgment and order of the learned single Judge dated 27.11.2003, by which the writ petition filed by the petitioners had been dismissed by the learned single Judge.

2. Facts and circumstances giving rise to this case are that the petitioner-appellants had obtained a certificate of Prashikshan Praman Patra issued by the Government of Madhya Pradesh as equivalent to Basic Teacher's Certificate (B.T.C.) conducted by the State of Madhya Pradesh and on that post the petitioners-appellants had sought appointment by submitting their application to the post of Assistant Teachers in primary schools in District Banda, in pursuance of the advertisement dated 12.8.1996, wherein the requisite qualifications had been B.T.C., S.T.C., J.T.C. or T.C.

3. Appellants' case had been that the certificate possessed by them had not been recognised by the State of Uttar Pradesh equivalent to the either of the said qualifications, thus, this Court should hold that both qualifications are equivalent and issue direction to the State Authorities to recognise the said qualifications equivalent to the requisite qualification for the post.

4. The learned single Judge after examining the record and affidavit filed by the

parties recorded the finding of fact that certificate possessed by the petitioners-appellants had never been recognised by the State of U.P. and they were not eligible for the posts. More so, as by a specific order dated 11.8.1997, the criteria of granting and acknowledging other/certificates obtained by the candidates from outside States which had been earlier equivalent to B.T.C. had been abrogated, they did not possess the requisite qualifications.

5. The learned single Judge also rejected the submission made on behalf of the appellants petitioners that as they had obtained the certificate prior to the order dated 11.8.1997, and de-recognition cannot be with retrospective effect.

6. It is settled legal proposition that qualifications must be currently prescribed as on the date of advertisement. This view stands fortified by the judgment of the Hon''ble Apex Court in Union of India (UOI) and Another Vs. Yogendra Singh, , wherein it has been observed as under :

"No candidate who does not possess the currently prescribed qualification and he possesses the qualification prescribed earlier, can be said to be qualified Every candidate, who aspires to fill any vacancy, must possess the educational qualification that are then prescribed."

7. More so, what should a prescribed qualification for a particular post is to be determined by the Statutory Authority/State Government taking a policy decision which should not be interfered lightly by the Courts, as the decision is taken by the Expert Committee, unless there are compelling circumstances to do so or malice is proved.

8. A Constitution Bench of Hon''ble Apex Court in The University of Mysore and Another Vs. C.D. Govinda Rao and Another, , examined the issue and observed as under :

"Boards of Appointments are nominated by the Universities and when recommendations made by them and the appointments following them, are challenged before the Courts, normally the Courts should be slow to interfere with the opinions expressed by the experts..... It would normally be wise and safe for the Courts to leave the decisions of academic matters to experts who are more familiar with the problems they face than the Courts generally can be."

9. In State of Bihar and Others Vs. Dr. Asis Kumar Mukherjee and Others, , while dealing with a similar issue, the Apex Court held that opinions of the expert on the basis of which the State takes a decision "cannot be espied with a suspicious eyes by the Court. Governmental ways may not be familiar for forensic processes but for that reason, they cannot be suspected."

10. In The Chancellor and Another Vs. Dr Bijayananda Kar and Others, , the Hon''ble Supreme Court held as under :

"Whether a candidate fulfils the requisite qualifications or not is a matter which

should be entirely left to be decided by the academic bodies and the concerned Selection Committee which invariably consists of Experts on the subjects relevant to the selection."

11. The Court categorically held that Courts/Tribunals should not ordinarily interfere with the decisions of the academic authorities in such matters.

12. In *Chairman, J and K State Board of Education Vs. Feyaz Ahmed Malik and Others*, , while deciding a similar case, the Hon"ble Supreme Court relying upon its earlier judgment in *The Bihar School Examination Board Vs. Subhas Chandra Sinha and Others*, , reiterated the same view.

13. Similar view has been reiterated in *The Dental Council of India Vs. Subharti K.K.B. Charitable Trust and Another*, .

14. In *Delhi Pradesh Registered Medical Practitioners Vs. Delhi Admn. Director of Health Services and Others*, , the Hon"ble Supreme Court observed that the issue of eligibility remains in the realm of policy decision of other Constitutional functionaries and it must be left to the proper authorities having requisite knowledge in that subject as to what should be the requisite qualification for a particular post.

15. In *State of Rajasthan v. Lata Arun and Ors.* AIR 2002 SC 2642, after considering the issue at length, the Hon"ble Supreme Court held as under :

".....The prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for Courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority."

16. In view of the above, we see no reason to interfere with the well reasoned judgment and order of the learned single Judge, and the appeal is liable to be rejected.

17. Even otherwise, select list prepared in pursuance of the said advertisement dated 12.8.1996, stood exhausted long back and the vacancies so advertised had also been filled up, no relief can be granted at such a belated stage.

18. It is settled legal proposition that no relief can be granted to the candidate if he approaches the Court after expiry of the Select List, Vide *J. Ashok Kumar v. State of Andhra Pradesh and Ors.* JT 1996 (3) SC 320; *State of Bihar and others Vs. Md. Kalimuddin and others*, ; *State of U. P. and others Vs. Harish Chandra and others*, ; *Sushma Suri Vs. Govt. of National Capital Territory of Delhi and Another*, and *State of U.P. and Ors. v. Ram Sarup Saroj* (2003) 3 SCC 699. It has been held therein that if the selection process is over, select list had expired and appointments had been made, no relief can be granted by the Court at a belated stage.

19. The selections have been made. All the vacancies have been filled up. No

successful candidate has been impleaded as party. Petition itself was liable to be rejected for want of necessary parties. Vide Prabodh Verma and Others Vs. State of Uttar Pradesh and Others, ; Ishwar Singh v. Kuldip Singh; Bhagwanti and Ors. v. Subordinate Services Selection Board, Haryana and Anr., 1995 Supp (2) SCC 663, ; Central Bank of India v. S. Satyam and Ors. (1996) 6 SCC 419; J. Jose Dhanapaul Vs. S. Thomas and Others, ; Arun Tiwari and Ors. v. Zila Manasavi Shikshak Sangh and Ors. AIR 1998 SC 331; Azhar Hasan and Others Vs. Distt. Judge, Saharanpur and Others, ; Ram Swarup and Others Vs. S.N. Maira and Others, ; Shri L. Chandrakishore Singh Vs. State of Manipur and Others, ; Mohd. Riazul Usman Gani and Others Vs. District and Sessions Judge, Nagpur and Others, ; Nirmala Anand Vs. Advent Corporation Pvt. Ltd. and Others, and M.P. Rajya Sahkari Bank Maryadi Vs. Indian Coffee Workers" Co-operative Society Ltd. and Others, ; Ramrao and Ors. v. All India Backward Class Bank Employees Welfare Association and Ors. (2004) 2 SCC 1976.

20. Appeal is devoid of any merit and is accordingly dismissed.