
(2023) 02 OHC CK 0132
In the Orissa High Court
Case No : Writ Petition (C) No. 8462 Of 2016

Mamata Mishra

APPELLANT

Vs

University Grants Commission And Another

RESPONDENT

Date of Decision : 17-02-2023

Acts Referred:

Citation : (2023) 02 OHC CK 0132

Hon'ble Judges : A.K. Mohapatra, J

Bench : Single Bench

Advocate : S. Patnaik, U.C. Mohanty, Chamdra Madhab Singh, B. Panigrahi

Final Decision : Disposed Of

Judgement

A.K. Mohapatra, J.

1. Heard Mr. S. Pattanaik, learned counsel for the petitioner, Mr. Chandra Madhab Singh, learned counsel for the Opposite Party No.1 and Mr. B. Panigrahi, learned counsel for the Opposite Party No.2. Perused the pleadings as well as documents annexed thereto.

2. The present writ petition has been filed by the petitioner with a prayer to quash the communication under Annexure-8 and for declaration that the Chartered Accountancy Course is equivalent to the post-graduate degree in Commerce and further prayed for issuance of writ of mandamus directing the O.P. No.1 to provide NET-e Certificate in favour of the petitioner and finally the petitioner prayed for, since she possesses requisite qualification for Assistant Professor in Commerce, her case may be considered by the authority for such appointment.

3. Learned counsel for the petitioner submitted that the petitioner is a qualified Chartered Accountant from the Institute of Chartered Accountants of India. In May, 2002, the Institute of Chartered Accountants of India has issued certificate in favour of the petitioner. In December, 2013, the petitioner appeared in

National Eligibility Test (in short the 'NET') conducted by the University Grants Commission i.e. Opposite Party No.1 for appointment to the post of Assistant Professor. The petitioner appeared in the said examination and secured 61.71% of marks and accordingly, she was declared passed by the authority. However, subsequently, on receipt of communication dated 21.09.2019 from the Joint Secretary, University Grants Commission under Annexure-8, wherein the petitioner has been informed that although she has been provisionally declared qualified in UGC-NET held on 29th December, 2013 to be eligible for appointment as Assistant Professor, however, such eligibility is subject to fulfillment of conditions prescribed for UGC-NET. Further, it has been mentioned in the said letter that on scrutiny of the documents submitted by the petitioner, it was found by the Opposite Party No.1 that she is an Associate of the Institute of Chartered Accountants of India and the said rank has not been recognized for NET conducted by UGC. Therefore, the UGC under Annexure-8 declared the petitioner as disqualified in the UGC-NET held on 29.12.2013. After receipt of the communication under Annexure-8, the petitioner wrote to the UGC to recognize Chartered Accountant degree as equivalent to the Post-Graduate Course in Commerce and as such to declare her qualified in the UGC-NET examination. Thereafter, Association of Indian Universities wrote a letter to the UGC requesting them to recognize the Chartered Accountant post to equivalent as Assistant Professor of Commerce. However, no action was taken on the part of the Opposite party No.1. Thereafter, the petitioner approached this Court by filing the present writ petition.

4. The Opposite Party No.2 has filed preliminary counter affidavit supporting the stand of the petitioner and they have stated in the counter affidavit that the course of Chartered Accountant is equivalent to the Post-graduate post in Commerce and accordingly, they have supported the stand taken by the petitioner in the present writ petition.

5. A counter affidavit has also been filed on behalf of the Opposite Party No.1 wherein they have stated that in the UGC meeting held on August 4-6, 1998 and 13.10.1998 respectively, a decision was taken not to recognize the degree of Company Secretaries, Cost and Works Accountants and Chartered Accountants to be recognized degrees and as such, the same cannot be equated to Post-graduate degree. Further referring to item No.7 of the 379th meeting held on 13.10.1998, it has been stated in the counter affidavit that it was unanimously resolved by the U.G.C. that CS, ICWA and CA examinations are not at all fit cases automatically and otherwise to be considered favourably for being admitted to National Education Testing (NET) facilities offered by U.G.C. as reiterated by the panel earlier was also taken into consideration while taking decision, which was taken in its meeting held on August 4-6, 1998. As such, it was submitted that the course of Chartered Accountancy cannot be equated with a course of Post Graduate in Commerce. Accordingly, learned counsel appearing for the Opposite Party No.1 submitted before this Court that although initially, the petitioner was declared provisionally qualified, however, the petitioner having

no requisite degree, by the U.G.C., the Opposite Parties disqualified the petitioner for consideration to be appointed as Assistant Professor.

6. Learned counsel for the petitioner drawing attention of this court to a public notice issued by the U.G.C. on 15th April, 2021 submitted before this Court that recently, the U.G.C. in its 558th meeting held on 28th 18th February, 2021 took a decision whereby CA/CS/ICWA qualifications are considered to be equivalent to Post Graduation Degree.

7. In such view of the matter, learned counsel for the petitioner submits that since the U.G.C. has already taken a decision equating the of CA degree with that of Post Graduation Degree in Commerce, there exist no hurdle in declaring the petitioner to be qualified for the NET. Accordingly, it was submitted that the Opposite party No.1 be directed to issue requisite certificate to the petitioner and to other NET qualified candidates.

8. Having heard the learned counsels for the parties and after considering the rival contentions and upon a conspectus of the materials placed before this Court, this Court is of the considered view that the only question that is required to be adjudicated in the present writ petition is the equivalence of CA degree vis-a-vis Post Graduation Degree in Commerce. However, after notification dated 15th of April, 2021 issued by the U.G.C. (Opposite Party No.1) nothing remains to be adjudicated in the present writ petition.

9. In such view of the matter, this Court has no hesitation to quash the impugned communication dated 21.09.2015 under Annexure-8 and accordingly, the same is hereby quashed. Further, it is observed that the prayer no.2 of the writ petition has become infructuous in view of the notification of the U.G.C. dated 15th of April, 2021. So far as prayer no.3 of the writ petition is concerned, this Court is of the considered view that since U.G.C. has already accepted the Chartered Accountant Degree to be equivalent with Post Graduation Degree in Commerce, the Opposite Party No.1 is directed to issue NET certificate in favour of the petitioner as she has already cleared the written examination and subsequently she was declared disqualified because of the aforesaid anomaly.

10. In view of the aforesaid analysis of the fact as well as law, this Court has no hesitation in coming to a conclusion that the petitioner possesses requisite qualification to be appointed as Assistant Professor in commerce subject to availability of vacancy. Accordingly, it is open for the petitioner to apply for appointment against such vacancy. In the event the petitioner makes an application as observed here, the same shall be considered by the authorities on the basis of NET certificate issued by the U.G.C. Opposite Party No.1. The NET certificate be issued within a period of six weeks from the date of production of certified copy of this judgment.

11. With the aforesaid observation/direction, the writ petition stands disposed of. However, there shall no order as to cost.

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