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**(1987) 11 GAU CK 0006**  
**In the Gauhati High Court**  
**Case No : Civil Rule No. 1305 of 1986**

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| Ohiduz Zaman   | Vs | APPELLANT  |
| State of Assam |    | RESPONDENT |

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**Date of Decision :** 02-11-1987

**Acts Referred:**

**Citation :** (1988) 1 GLJ 16

**Hon'ble Judges :** K.N.Saikia, C.J. and R.K.Manisana Singh, J

**Bench :** Division Bench

**Advocate :** T.N.Phukan, S.Rahman, D.P.Chaliha, Advocates appearing for Parties

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## Judgement

1. The petitioner was appointed as Lecturer in Hindi in the Ananda Ram Dhekial Phookan College, Nagaon, Assam by an order dated 30.8.1985 at a consolidated monthly salary of Rs. 550/only. The UGC Scale having been denied to him, he submitted an application to the Director of Higher Education, Assam dated 13.9.1986 for approval of his appointment. The Joint Director of Higher Education, Assam by his letter No.G(A) AC 47/83/169 dated 10.12.1986 wrote to the Principal of the said college stating that the petitioner was not eligible for the UGC scale of pay, nor was he eligible for the state scale of pay. This order is being impugned before us.

2. Mr. T.N. Phookan, the learned counsel for petitioner submits, inter alia, that the impugned order dated 10.12.1986 of the Joint Director of Higher Education is a very cryptic one and no reason whatsoever has been given as to why the petitioner is not eligible for the U.G.C. scale of pay, or the state scale of pay. We find some force in the submission of Mr. Phookan as no reason has been given/in the impugned order as to why the petitioner is not eligible to either of the scales of pay.

3. Admittedly, the petitioner passed B.A. examination in 1979 with Hindi as MIL and Honours in Political Science securing 45% marks, He also passed M.A. examination not in Political Science but in Hindi from Gauhati University in 1982

securing 52.9% marks. Mr. Phookan submits that the petitioner had 2nd Class Honours in his first degree, though not the subject of Hindi, and he possessed requisite marks in M.A. in Hindi to qualify for the U.G.C. scale pay. In support of his contention Mr. Phookan refers us to a circular issued from the office of the Director of Public Instruction, Assam to the Principal/Secretary of all the aided Colleges, dated 2.11.1982 (Annexure 8 to the petition). Therein the Director of Public Instruction drew the attention of the Principal/Secretary of all the Colleges to the last paragraph of the conditions imposed by the U.G.C. ( and approved by the State Government ) that the requirements in norm A was a general one for all other category of lecturers and norms B and C were for Education and English respectively. The petitioner accordingly was to be qualified under norm A which prescribed minimum qualification for recruitment to the post of College Lecturer which read as follows :

"Minimum Qualifications prescribed for recruitment to the post of College lecturers

(a) Good academic record with at least second class (C in the seven point scale ) Master's degree in a relevant subject from an Indian University or equivalent degree from a foreign University and

(b) An M. Phil degree or a recognised degree beyond the Master's level or published work indicating the capacity of a candidate for independent research work.

Provided, that if the Selection Committee is of the view that the research work of a candidate as evident either from his thesis or from his published work is of a very high standard, it may relax any of the qualification prescribed in (a) above.

Provided, further that if a candidate possessing the qualifications as at (b) above is not available or not considered suitable, the college on the recommendation of the Selection Committee may appoint a person possessing a consistently good academic record on the condition that he will have a (sic) obtain an M.Phil, degree or a recognised degree beyond the Master's level within eight years of his appointment failing which he will not be able to earn future increments till he obtains that degree or gives evidence of equivalent published work of high standard."

Clause (D) of the circular gives the interpretation (definition) of good academic records) to be possessed by the UGC College lecturers in the following terms :

"(i) A candidate holding an M. Phil degree should possess at least a second class Master degree; or

(ii) a candidate not holding an M. Phil degree should possess a high second class Master's degree and a second class in first degree ( B.A./B.Sc./B.Com. examination or

(iii) a candidate not holding an M. Phil but possessing a second class Master's

degree should have obtained a first class in the first degree (B.A./B.Sc./B Com.) examination."

From the above it appears that the candidate not holding an M.Phil degree should possess a High Second Class Master degree and a second class in first degree (B.A./B.Sc./B.Com.) examination or he must possess a Second Class Master degree and should have obtained a first class in the first degree (B.A./B.Sc./B.Com.) examination.

4. In so far as the Master Degree is concerned, the petitioner claims to have obtained High Second Class as he secured 52.9% marks. However, the question is whether he had a second class in first degree. When the question of Honours arises in the matter of qualification, normally Honours in that particular subject is meant inasmuch as the Honours in another subject may not be as useful for the purpose of teaching as would be Honours in the same subject. So a second class in first degree examination in this sense would always be Honours in the same subject. Scrutinised from this angle the petitioner did not have Honours in Hindi which was his MIL. His Honours in Political Science would, in this sense, be not a requisite qualification in the subject of Hindi.

5. Mr. Phookan however refers us to certain communications from the Deputy Registrar (Admn.), Gauhati University to the Secretary, University Grants Commission dated 2.6.1980 intimating that the Academic Council of Gauhati University appointed a committee to examine the qualifications of teachers of affiliated colleges and that committee reported the requirement as follows ;

"A second class masters degree with not less than 45% marks in the subject with Honours in the subject or distinction or 50% marks in the aggregate of all papers at the degree level should be the essential qualification for recruitment of teaching for affiliated colleges."

From this, however, it does not transpire that the University Grants Commission accepted the recommendation of this committee. The Under Secretary of the University Grants Commission in his communication to the Registrar, Gauhati University dated 5.11.1980 stated that the qualification prescribed by the University for recruitment to the post of lecturer in the Colleges affiliated to the University were not in conformity with those prescribed by the University Grants Commission and that the matter be accordingly reviewed. In this letter dated 3.9.1984, the Registrar of the Gauhati University wrote to the Education Secretary to the Government of Assam informing that the academic Council of the Gauhati University in its meeting held on 26.1.1976 and Executive Council in its meeting held on 5.11.1976 accepted the University Grants Commission point grading system at the post graduate level and that the academic Council had also accepted the revised qualifications of college teachers as prescribed by the University Grants Commission.

6. Mr. Phookan also refers us to the communication dated 9.2.1985 from the Registrar, Gauhati University to the Secretary, Education, Government of Assam

informing that the UGC's norms for recruitment of college lecturers did not specify any requirement of Honours at the degree level and that the exact wordings were as follows :

"(a) An M. Phil degree or a recognised degree beyond the Master's level or published work indicating the capacity of a candidate for independent research work ;

AND

(b) Good academic record with at least second class (c) in the seven point scale) Master's degree in a relevant subject from an Indian University or equivalent degree from a foreign University.

Provided that if a candidate possessing the qualifications as at (A) above is not available or not considered suitable, the college on the recommendation of the selection committee may appoint a person possessing a good academic record on the condition that he will have to obtain an M. Phil degree or a recognised degree beyond the Master's level within eight years of his appointment failing which he will not be able to earn future increments till he obtains that degree or gives evidence of equivalent published work of high standard."

7. If the latest norms did not specify any requirement of Honours at the degree level then the petitioner's case has to be considered in the light of those norms. At the worst his Honours in political Science could be ignored and if no Honours qualification at degree level was prescribed that would not naturally disqualify the petitioner for UGC scale as he possessed the M.A. degree of requisite standard. However, this appears to be at variance with what was stated in the earlier circular of the Director of Public Instruction, Assam dated 11.11.1982 (Annexure 8 to the petition) at least for certain subjects.

8. In view of the above norms, we find it difficult to ascertain the ground where for the Joint Director of Higher Education, Assam held the petitioner not to have been eligible for the UGC scale of pay or the State scale of pay. We consider it risky to find out the reasons in support of the impugned order.

9. For the foregoing reasons we direct the petitioner to submit an application asking for the reasons for holding the petitioner not eligible for the UGC scale of pay or the State scale of pay. After the reasons are given to the petitioner, it would be open to the petitioner pursue his remedies if he is so advised.

10. By our order dated 20.12.1986 passed in connected Misc. Case No. 1600 of 1986, we considered it just and proper that the petitioner's appointment should not be discontinued during the pendency of the Civil Rule, and to maintain status quo as regard the petitioner's service in the college during the pendency of the Civil Rule. Since the petitioner has now been directed to ask for the reasons from the Joint Director of Higher Education, we consider it just and expedient that our aforesaid interim order dated 20.12.1986 should continue till the reasons are given to the petitioner on his application. Let the petitioner apply to the Joint

Director of Higher Education, Assam within a period of one month from today and Jet the Joint Director of Higher Education give the reasons to the petitioner within a reasonable time thereafter

11. In the result, with the above observations and directions, this petition is disposed of. We leave the parties to bear their own costs.

Sd/

Chief Justice

Sd/

Judge