
(2002) 05 DEL CK 0150

In the Delhi High Court

Case No : Civil Writ Petition No. 310 of 2001

Pradeep Kumar

APPELLANT

Vs

M.C.D.

RESPONDENT

Date of Decision : 01-05-2002

Acts Referred:

Citation : (2002) 99 DLT 735

Hon'ble Judges : Sanjay Kishan Kaul, J

Bench : Single Bench

Advocate : Vikas Singh, for the Appellant; Ashok Chhabra, for the Respondent

Final Decision : Allowed

Judgement

Sanjay Kishan Kaul, J.—An advertisement was issued on 11.6.98 by the Delhi Subordinate Services Selection Board for appointment to the post of Primary Teacher/Nursery Teacher/Assistant Teacher in the schools of the respondent MCD. The petitioner applied in pursuance to the said advertisement for the post of primary teacher.

2. The petitioner had undergone a course in matriculation from the Hindi Sahitya Sammellan, Allahabad in 1986 and was awarded degree of Prathma

3. Pariksha which the petitioner claims be equivalent to the qualification of metriculation. This claim is based on a letter issued by the said Hindi Sahitya Sammellan dated 22.4.1999. It may be noted that the required educational qualifications for the post of the primary teacher is senior secondary or an equivalent exam and two years of teacher training course or equivalent course from a recognised Board or University.

4. The petitioner appeared in the entrance examination and was found eligible for the post and was called for verification of his testimonials on 18.2.1999. The petitioner was issued a letter nominating the petitioner for appointment to the post. The petitioner claimed that he was called for verification of the documents

on 15.11.1999 and at the stage of examination of documents the examining officer raised an objection in respect of the degree awarded by Hindi Sahitya Sammelan.

5. The petitioner has also relied upon a certification dated 29.7.1991 issued by the CBSE that the Hindi Sahitya Sammelan Prathma Pariksha exam passed by a candidates has been treated as equivalent to metric by the Government of India, Ministry of Home Affairs, Hindi Teaching Scheme, December, 1987. The petitioner has filed the present writ petition seeking writ against the respondent corporation commanding the respondent to accept the petitioner as primary teacher along with all consequential benefits of seniority and pay when such earlier candidates of the batch have been appointed.

6. The petitioner has also contended in the petition that he is being discriminated against since certain other candidates who have been awarded the degree from the same institution have been appointed by the respondents as set out in para 4(xii). The petitioner has further stated in the petition that curriculum of the Prathma degree includes teaching in History, Geography, General Science, Mathematics, Home Science and also has the optional subject of History in the curriculum and thus can be safely treated as equivalent to metric examination.

7. In the counter affidavit filed by the respondent corporation it is stated that Prathma Pariksha passed by the petitioner from Hindi Sahitya Sammelan, Allahabad is not recognised in the general set up of the examination and in this behalf a clarification was also sought from the Ministry of Human Resource Development, Government of India. In the reply received from the Government of India it was noted that the recognition of the said degree is limited up to knowledge of Hindi and it was made clear that no one Hindi examination is full fledged equivalent to Degree or Diploma or Certificate. A copy of the relevant press note was also annexed to the said letter. The press note took into consideration the fact that the Hindi Sahitya Sammelan is the voluntary organisation, not a University or an organisation equivalent to the University and thus not equivalent to any said examination of Board or University. The equalisation is only for qualification of Hindi.

8. It is further stated in the affidavit of the respondent corporation that name of the petitioner was wrongly forwarded by the DSSSB as the petitioner had not passed the matriculation examination from the general set up of the examination. In so far as the ground of discrimination of the petitioner is concerned it is stated that out of the four example referred to in the writ petition, the first two candidates were appointed in the MCD but were not selected by the DSSSB. It is further submitted that no one has been appointed in the present selection made by the DSSSB.

9. A material development has taken place during the pendency of the writ petition. A notification dated 26.7.2001 has been issued by the Government of India, Ministry of Home Affairs Development to the following effect:-

"No. F. 24 On the recommendation of the High Level Committee for recognition of Educational Qualifications, the Government of India have decided to recognised the Prathma Examination being conducted by Hindi Sahitya Sammellan, Allahabad for the purpose of employment under the Central Government for the period for which the desired qualification is a pass in metriculation. The recognition is provisional for a period of 3 years after which the committee will review the recognition granted."

10. Thus in terms of the notification the Prathma examination of the Hindi Sahitya Sammellan for purposes of employment under the Central Government has been recognized for the post for which the desired qualification is pass in metriculation. No doubt the recommendation is provisional for a period of 3 years after which the concerned committee is to review the recommendation granted.

11. Learned counsel for the petitioner referred to the judgment of the learned Single Judge of this court in CWP 21/2000 Pawan Kumar v. NCT of Delhi and Ors. decided on 29.1.2002. The said writ petition was concerned with the instruction and guidelines formulated by the National Council for Teachers Education requiring educational institution under NCTE Act imparting teacher education to be recognised by NCTE. It was noted in the said judgment that an institution which is not recognised cannot impart any such education after the promulgation of the NCTE Act. The learned Single Judge also took note of a Government of India letter clarifying that the degree issued by one of the institutes was recognised only for purpose of employment under Central Government. The said NCTE Act was enforced w.e.f. 1.7.95 and the learned Single Judge considered the fact of the degree obtained before the said date or in cases where persons had joined the course before that date. The learned Single Judge relied on the judgment of Supreme Court in Suresh Pal and Others Vs. State of Haryana and Others, which had held that where an institute was de-recognised it was unjust to tell the candidates who had acquired their qualification earlier that they cannot be given benefit of such recognition. Since the period during which the petitioners before the learned Single Judge had obtained their degree the degree in question was recognised, learned Single Judge held that the same would continue to be recognised for such petitioner and the degree obtained prior to the NCTE Act coming into force cannot be rendered nugatory or worthless.

12. In the present case the issue arises out of the validity of the degree obtained by the petitioner and whether the same can be treated as equivalent to metriculation. The petitioner had obtained the degree prior to the NCTE Act coming into force since the petitioner had qualified the course in 1986. Thus the degree would be valid in view of the judgment of the learned Single Judge in Pawan Kumar's case(supra) provided it was so recognised earlier. Learned counsel for the respondent however, contends that the notification dated 26.7.2001 is only for purpose of employment under the Central Government and can only have prospective effect. In so far as the question of employment under Central Government, similar situation was discussed in Pawan Kumar's

case(supra) and the ratio of the said judgment would apply to the facts of the present case. Thus the only question is what is the effect of the notification dated 26.7.2001 and the earlier document issued and referred to in the petition.

13. It is relevant to note that not only has the Hindi Sahitya Sammellan issued the letter dated 22.4.1999 but the Central Board of Secondary Education also issued letter dated 29.7.91 certifying that the degree in question had been recognised by Government of India for past candidates as equivalent to metric. This goes to show that the degree was even recognised at an earlier period of time and this fact has to be appreciated coupled with the order dated 26.7.2001 recognized the degree. Not only this four other candidates with similar qualifications are alleged to have been appointed on the basis of the said qualification. In the counter affidavit it is stated that the first two candidates were appointed but they were selected by DSSSB. The fact whether they were selected by DSSSB or not is not material but what is material is that similarly situated candidates have been so appointed to the post by the MCD. Thus, in my considered view, it is not open to the MCD to contend that it does not recognised the said degree. If that was the position the selection of these candidates would have been cancelled.

14. In view of the aforesaid a writ of mandamus is issued to the respondent corporation directing them to appoint the petitioners as a Primary Teachers with all consequential benefits of seniority were the earlier candidates in the batch have been so appointed. However, the petitioner shall not be entitled to any salary or allowances for the past period and would be entitled to the salary only from the date of appointment as the petitioner have not worked for this period of time and this is in conformity with the directions issued in Pawan Kumar's case(supra). The needful be done by the respondent corporation within a period of one month from today.

15. Writ petition stands allowed in the aforesaid terms leaving the parties to bear their own costs.