
(1993) 09 RAJ CK 0024
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2005 of 1993

Rajneesh

APPELLANT

Vs

Jai Narain Vyas University, Jodhpur and Others

RESPONDENT

Date of Decision : 06-09-1993

Acts Referred:

Jai Narain Vyas University Jodhpur Act, 1962 — Section 23

Jai Narayan Vyas University Jodhpur Ordinance — Ordinance 211, Ordinance 296

Citation : AIR 1994 Raj 111

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

Bench : Single Bench

Advocate : M.L. Shreemalee, for the Appellant; P.P. Choudhary and G.M. Bhandari, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Mathur, J.—The petitioner by this writ petition has prayed that the Resolution No. 6/93 dated 3-3-1993 (Anuexure 18) whereby the research scholarship has been awarded to respondent No. 3 may be quashed and the respondent University may be directed to grant this scholarship in favour of the petitioner who is on the top of the waiting list. It is also prayed that the respondent University may be directed to record 10-12-1990 as the date of registration of the petitioner for Ph.D. work.

2. The petitioner passed the M.A. (Kinal) Philosophy examination with first division in the year 1991 from the Jai Narain Vyas University, Jodhpur (referred to hereinafter as "the University"). The petitioner appeared in the theory papers of M.Phil. (Philosophy) from the University in the month of September, 1992 and the dissertation thereof is still to be completed. The petitioner wanted to do the Ph.D. (Philosophy) from the University with the aforesaid M.Phil, and therefore, he started synopsis work for the said Ph.D. after selecting the title of the thesis. The synopsis was completed and was got approved from the supervisor and the same was submitted along with the application for registration to the Head of the

Department, Department of Philosophy of the University on 6-1-1992. It is alleged that the synopsis of the petitioner was placed in the meeting on 30-1-1992 and thereafter on 18-2-1992. The registration fees was accepted from the petitioner. The matter was ultimately placed in the meeting dated 13-5-1992 before the Research Buard of the University and the Research Board approved the research work of Ilie petitioner. Though according to the petitioner he commenced the research work from 10-12-1991. The petitioner also applied for the research scholarship in pursuance of the advertisement dated 23-9-1992 issued by the University in time and submitted all necessary documents required in the prescribed form. The respondent No. 3 also submitted her application for scholarship. The respondent No. 3 was granted the scholarship and the petitioner was not granted though his name was placed on the top of the waiting list. Therefore, the petitioner has challenged the grant of scholarship to respondent No. 3 on the ground that the respondent No. 3 is not entitled for the scholarship as she was gainfully employed and as per Ordinance 296 of the University a research scholar will not be permitted to engage himself/herself in any work other than research work. The petitioner made protest against the grant of scholarship to respondent No. 3 on the ground that she is working as announcer in the All India Radio and therefore, she is not entitled to the scholarship. Secondly, the petitioner has submitted that the date of registration in the case of the petitioner should be 10-12-1991 and not 18-2-1992. In that connection learned counsel for the petitioner has submitted Ordinance 211 should be read down. According to him the expression "the dale of the commencement of research work shall be the date of forwarding of the application by the Head of Department or the date of the actual starting of the work whichever is later.

3. A reply has been filed by the University and so also by the Union of India (All India Radio). They denied the allegation that the respondent No. 3 is in the regular employment of the All India Radio. It is submitted that she was a casual announcer and such casual performances does not fall within the expression engagement so us to disentitle her any scholarship. The University has also filed reply and contested the writ petition.

4. So far as the first question is concerned it will be relevant to quote Ordinance 296 which reads as under :

"296. During the period of scholarship, a Research Scholar will not be permitted to engage himself, herself in any work other than research, provided that with the permission of the Vice-Chancellor he she may be engaged temporarily for not more than four months for teaching work during which the scholarship will remain suspended,"

5. It is true that this ordinance clearly lays down that during the period of scholarship the research scholar will not be permitted to engage himself," herself in any work other than research work provided with the permission of the Vice-Chancellor, the candidate may be engaged for not more than 4 months for teaching work during which period the scholarship remained suspended.

6. Now, in the present case, the respondent No. 3 was not employed in the Directorate of All India Radio respondent No. 4 and she was not a paid employee of the All India Radio. It was submitted that she was like so many other youths who participate as a casual announcer/compere in the Yuv Vani Programme of Jodhpur Station of All India Radio since October, 1989. It is submitted that such casual announcer or compere is booked on contract or on assignment basis and for doing this he/ she has no claim for any regular job in the All India Radio. Such kind of announcer/compere is just like any other talker/artist booked in All India Radio for presenting any programme. Such casual announcer/ compere is selected on the basis of an audition test of their voice quality. However, the duty chart Annexure 13 is admitted as produced by the petitioner.

7. The University has also filed a reply and it is submitted that a query was made by the Assistant Registrar to the Station Director, All India Radio, Jodhpur on 21/22-4-1991 whether the respondent No. 3 is an employee of the All India Radio or not. The Station Director, All India Radio, Jodhpur has informed that she was not a paid employee of the All India Radio and she is only a casual compere of the Yuv Vani Programme of Jodhpur Station of the All India Radio.

8. Thus, from these facts it transpires that the respondent No. 3 is not a regular employee of the All India Radio and she is only a casual announcer/compere and wherever there is a programme she is doing the job of announcer/compere and for that a fixed remuneration is paid. Such kind of casual performance on the All India Radio does not fall within the definition of employment. It is only a casual appearance of the respondent No. 3 as and when she was called by the All India Radio and as such on the basis of such casual appearances it cannot be said that she is engaged in any regular work with All India Radio other than that of research. More so, she was granted the scholarship by Resolution Annexure 18 by the Research Board, Faculty of Arts, Education and Social Science by its meeting held on 2-3-1993 and she has been working with the All India Radio as a Casual Announcer since October, 1989. In any case the Ordinance 296 cannot be construed to mean that the respondent No. 3 was engaged in any work which hampers her research. Such casual remunerative appearances cannot be said to be an employment so as to debar a candidate from scholarship.

9. Thus, this contention of the petitioner has no merit and the same is rejected.

10. The next question that has been contended by the learned counsel for the petitioner is whether the petitioner should be granted registration of the Ph.D. from 10-12-1991 and not from 18-2-1992. Though this argument was not orally pressed at the time of arguments. However, subsequently learned counsel has moved an application and pressed that this argument has not been pressed into service but the same is now sought to be raised.

11. Before I examine this argument in the light of the averments made in the writ petition and it may be stated here that there is no reply to this effect filed by the respondent University. However, it is purely a question of interpretation of

Ordinance 211 of the University. Ordinance 211 reads as under:--

"211. Every accepted candidate shall be required to be in residence in the University or in the institution approved by the University for a period of not less than two years from the date of commencement of research, the date of the commencement of research work shall be the date of forwarding of the application by the Head of the Department or the date of the actual starting of the work whichever is later. Provided that in special cases the period of residence can be reduced by the Vice-Chancellor up to the extent of the period the candidate has worked in another university subject to a maximum of one year, if a candidate had been duly registered in another University and has subsequently migrated to this University or in any special circumstances that shall be recorded in writing, and approved by the Research Board."

12, According to Ordinance 211 though the expression registration has not been expressly used but a bare reading of this provision shows that a candidate has to be enrolled for Ph.D. and it could be conveniently nomenclatured as registration. But the question is as to from what date he is said to have commenced his research. Ordinance 211 says that the date of commencement of the research work shall be the date of forwarding of the application by the Head of the Department or the date of the actual starting of the work whichever is later. The petitioner wants that this part of the expression should be read down as it is redundant and/or meaningless. I do not find any apparent mistake so as to read it down or treated to be redundant. The date of the commencement of the research is to be either from the date of forwarding of the application by the Head of the Department or the date of the actual starting of the work whichever is later. This is essentially question of fact which will depend upon each case and there is no harm if the authorities take the date of research from the date of forwarding of the application by the Head of the Department or the date of the actual starting of the work whichever is later. For the purpose of counting the period of two years in the present case, the petitioner's application was taken up for consideration by the Departmental Council (Philosophy) but his synopsis were not placed for consideration. But it is alleged that the synopsis was completed and got approved from the supervisor and was submitted along with the application for registration to the Head of the Department of Philosophy on 6-1-1992. Thereafter in the three meetings held on 17th, 22nd and 24th Jan., 1992 of the Departmental Council (Philosophy) the application and synopsis were not placed for consideration of the Council but the same were placed on 30-1-1992 and thereafter only on 18-2-1992 the petitioner was registered. Therefore, under these circumstances, I do not find anything wrong in accepting the date of petitioner's registration as 18-2-1992 and Ordinance 211 cannot be read down as alleged by the petitioner. Hence, there is no merit in this contention of the learned counsel for the petitioner also.

13. In the result, there is no merit in this writ petition and the same is dismissed".