

(2004) 05 DEL CK 0011
In the Delhi High Court
Case No : WP (C) No. 22 of 2001

Sandeep Sangar

APPELLANT

Vs

Reserve Bank of India and Others

RESPONDENT

Date of Decision : 26-05-2004

Acts Referred:

Citation : (2004) 112 DLT 153 : (2004) 75 DRJ 304 : (2005) 1 SLJ 341

Hon'ble Judges : Pradeep Nandrajog, J

Bench : Single Bench

Advocate : Neeraj Kaul and Rajeev Garg, for the Appellant; R.N. Trivedi, A.S.G., H.S. Parihar and K.S. Parihar, for the Respondent

Final Decision : Dismissed

Judgement

Pradeep Nandrajog, J.—In the year 1982, Reserve Bank of India issued an advertisement inviting applications to fill up the vacant posts of officers Grade B. As per the advertisement in question, eligibility as on 1.6.1992 for the said post was:

- i) Chartered Accountant or Cost Accountant with a Bachelor's Degree, OR
- ii) Bachelor's Degree or a Post Graduate Degree in Computer Science/Applications (e.g. B.E./B.Tech., M.E./ M.Tech., BCA/MCA) with a minimum of 50% marks in the aggregate or its equivalent grade; OR
- iii) graduate or a Post Graduate Degree with a minimum of 50% marks in the aggregate or its equivalent grade plus minimum 5 years experience (including probationary period) in a Commercial bank as an officer.

SC/ST candidates with a pass class in Graduate/Post Graduate Degree examination and qualifications/eligibility as mentioned at (i), (ii) or (iii) above are eligible to apply."

2. For the purpose of the present petition, we are concerned with the second alternative essential qualifications i.e. a Bachelor's Degree or a Post Graduate

Degree in Computer Science/Applications. It may be noted that by way of illustration, the advertisement illustrates which degrees would be treated as being treated as Graduate/Post Graduate Degree in Computer Science/Applications. BCA and MCA degrees being two.

3. As per the petition, the petitioner holds the following degrees :

(i) B.Sc. (Hons.) Physics (with papers of Electronics and Computers)

(ii) M. Sc. (Physics) (with papers of Computer Science).

(iii) Post Diploma in Computer Applications issued by Tool Room Training Center, New Delhi recognised by the Board of Technical Education .

4. Petitioner applied under the advertisement aforesaid, He was allowed to appear in the written examination. Petitioner claims that he was placed at Serial No.1 in the list of successful candidates who cleared the written examination. He was called for interview along with his testimonials and certificates etc. for 14.1.1993. On 5.1.1993, he received a communication to the effect that he could appear at the interview subject to the diploma in Computer Applications obtained by the petitioner being found to be equivalent to a degree in Computer Science/Applications. Petitioner appeared at the interview. His result was withheld. The respondent was seeking clarification on equivalence.

5. Petitioner pointed out to the respondent that various institutions like National Informatics Center, Indian Institute of Technology, National Hydroelectric Power Corporation Ltd. and Indian Tourism Development Corporations were recognising a diploma obtained after a Master's Degree in Physics as being equivalent to Master's Degree of Computer Applications i.e. MCA. Petitioner brought to the notice of respondents the advertisement issued by the said institutes where a Graduation Degree in Computer Science was equated with Graduation degree with a diploma in Computer Applications, obtained from a recognised institute.

6. Clarification was got obtained by the petitioner from the Association of Indian Universities, a body competent to rule on the issue of equivalence of degrees. Letter dated 21.6.1993 written by the Association of Indian Universities on which the petitioner relies reads as under :

"Dear Sir,

We have verified from the certificates shown to us that Mr. Sandeep Sangar has passed M.Sc. (Physics) from the University of Delhi and Post Diploma in Computer Application from the Board of Technical Education, Delhi Administration. He has further 3 years work experience on computer by working in the Deptt. of Statistical Analysis & Computer Services of the Reserve Bank of India and has attained good knowledge of programming languages and software packages as certified by the Director, DESACS, RBI, New Delhi vide his certificate of June,1993.

As no areas of subject studies and inter-disciplinary programmes are being

developed at Indian Universities, it may not be possible in all the cases to establish point to point equation of two qualifications. In the background of these facts and making a combined assessment of Shri Sangar's qualifications/work experience we will assess them worthy of being considered a comparable qualification to MCA Degree.

The appropriate authorities will verify the original certificates and other requirements."

7. Petitioner further relied upon the letter dated 25.6.1993 issued by the Government of India pursuant to the letter of the Association of Indian Universities. The said letter reads as under :

"Subject: Recognition of qualification-Regarding

Sir,

I am directed to refer to your letter dated 24th May,1993 on the subject mentioned above and to say that this Ministry recognise qualifications for the purpose of employment under Central Government. The academic equivalence of qualifications is done by Association of Indian Universities, New Delhi. Your case was, Therefore, referred to AIU regarding equivalence of qualifications, viz. M.Sc. (Physics) from University of Delhi and Post Diploma in Computer Application from the Board of Technical Education, Delhi Administration with 3 years work experience in computer.

The Association of Indian Universities have assessed the qualifications/work experience of Shri Sangar, in the background of the facts of the case, is worthy of being considered a comparable qualification to MCA degree."

8. Petitioner alleges that in spite of the issue being conclusively decided in his favor as per the opinion tendered by the Association of Indian Universities and accepted by the Government of India, Reserve Bank of India lingered on with the matter. Petitioner went on sending representations. Petitioner alleges that since June,1993, he has been working in the Computer Cell of the Reserve Bank of India. He has developed software for Reserve Bank of India.

9. On 14.7.2000, in response to the legal notice caused to be served upon the Reserve Bank of India by the petitioner, Reserve Bank of India replied to the petitioner as under :

"DAPM.No.146/05.01.03/2000-2001 14.7.2000

M/s Rajiv Garg & Company,

Advocates,

26, Supreme Court,

New Delhi-110001.

Dear Sir,

Notice issued on behalf of Shri Sandeep Sangar-

Reply thereto.

Please refer to your letter dated 18th May, 2000 on behalf of your client Shri Sandeep Sangar resident of F-171, Vikas Puri, New Delhi.

2. In this connection, we have to advise you as under :

i. Shri Sandeep Sangar had applied for the post of officer in Grade "B" and he was allowed to appear for the interview by the Reserve Bank Services Board provisionally as the matter regarding the equivalence of his diploma to the Degree in Computer Application was to be verified. The matter was referred to Ministry of Human Resources Development, New Delhi. The said Ministry informed that Diploma of 1 1/2 year passed by Shri Sangar was neither equivalent to nor comparable with the Degree in the relevant field. It was indicated by the bank in the relative advertisement that the Degree or a Post Graduate Degree in Computer Science/ Computer Application with a minimum of 50% marks was the essential qualification for the post. As such Shri Sandeep Sangar did not fulfill eligibility criteria for the post of Grade "B" Officer in the Bank.

ii. It is denied that the clarification sought from Ministry of Resources Development, Department of Education was twisted. The personal approach to HRD Ministry by your client are based on his oral conversation with the officials of the said Ministry and the Bank cannot have any comment on the same.

iii. The matter was also referred to the Department of Electronics who have opined that Ministry of HRD is the competent authority to establish the equivalence amongst the various courses. The reference of Association of Indian Universities and National Informatics Centre is not relevant as the ministry of HRD, Government of India is the competent authority to clarify the equivalence amongst various courses of different universities/institutions.

iv. As Shri Sangar did not fulfill the educational qualification prescribed for the post, his candidature was rejected.

v. The representations of Shri Sangar and his father were duly considered by the Bank and the representation's were advised suitably in the matter. It is denied that any assurance was given to Shri Sangar by the bank that he would be given due promotions will all consequential benefits.

vi. All other statements made in your notice, except which have been admitted above, are denied as being baseless and false.

vii. In view of above, it is clear that the candidature of your client for the post of Grade "B" was rejected as he did not fulfill the criteria of educational qualification prescribed for the post by the bank. It is denied that rejection by the Bank of

candidature of your client was not justified.

3. If inspired by above, your client initiates any legal proceedings against the Bank in this regard, the same shall be defended at your client's risk as to cost and consequences. You may advise your client suitably in the matter."

10. Present petition came to be filed. Prayer made is that the respondent be directed to declare the result of the petitioner and promote him with all consequential benefits.

11. The key to unlock the fate of the present petition is the determination of the meaning of the words "Bachelor's Degree or a Post Graduate Degree in Computer Science/ Applications or its equivalent".

12. Shri Neeraj Kishan Kaul, learned Senior Advocate appearing for the petitioner, in reference to the letter dated 21.6.1993 issued by the Association of Indian Universities, which was accepted by the Union of India, contended that the letters clearly opined that the appropriate authority i.e. Association of Indian Universities had rendered the opinion that since the petitioner was M.Sc. (Physics) and had a diploma course in Computer Applications from a recognised institute, the said two qualifications could be considered as comparable to qualifications of Master's Degree in Computer Applications. Counsel contended that the certification : "Worthy of being considered as comparable qualification to MCA Degree" (as per letter dated 21.6.1993) clearly means that the conducted effect of petitioner being a Post Graduate in Physics followed by acquiring diploma in Computer Applications mean that the petitioner holds an equivalent qualification to a Master's Degree in Computer Applications.

13. Per contra, Shri R.N.Trivedi, Additional Solicitor General urged that comparable and equivalent were two different phrases. Matter had to be decided from the point of view of equation of a degree. Counsel contended that it was impermissible to consider the issue from the point of view: whether a person has to be treated as suitable for a job because the sum total of his academic qualifications were such that he could reasonably be presumed to be qualified.

14. Counsel for the petitioner relied upon the following decisions:

- (i) State of Haryana and Others Vs. Indira Kumari,
- (ii) State of Rajasthan and Others Vs. Lata Arun, .
- (iii) Director, A.I.I.M.S. etc. Vs. Dr. Nikhil Tandon and Others, .
- (iv) Hill Grange High School Vs. SS Kalghatgi (2001) 5 SLT 385(2).

15. Counsel for the respondent relied upon R.Ramanatha Aiyar's "The Law Lexicon" Second Edition, 1999 pg 648-649, Black's Law Dictionary, Sixth Edition, Pg.541 and Words & Phrases Permanent Edition, Volume 15 page 158, 159 and 165 to bring home that the word "equivalent" and "comparable" were not synonymous.

16. In Indira Kumari's case (supra), the Supreme Court held that whether one degree is equivalent to another could be inferred from the conduct of the Government. The Supreme Court noted that as far back as on 12.3.1976, State of Punjab treated JBT Certificate as equivalent to Orientation Training Certificate. It was held that said conduct was relevant to determine equivalence. The ratio of the said judgment is not attracted to the present case as it is not the case of the petitioner that the diploma in Computer Applications obtained by him has to be treated as equivalent to a degree. As noted above, case of the petitioner is that the conducted effect of his being M.Sc. (Physics) followed by his obtaining a diploma in Computer Applications required the petitioner to be treated as holding a qualification comparable to a Post Graduate Degree in Computer Applications.

17. Decision of the Supreme Court in Lata Arun's case (supra) also does not relate to equivalence of a degree vis.a.vis another degree.

18. Decision in Dr. Nikhil Tandon's case (supra) issue was pertaining to appointment being effected to the post of Assistant Professor in Endocrinology in All India Institute of Medical Sciences. One of the essential qualifications which had to be met by the candidate for being eligible was: "M. Ch. for surgical super specialties and DM for medical super specialties or qualification recognised equivalent thereto". The issue was, whether Dr. Nikhil Tandon holds "DM for medical super specialties or qualification recognised equivalent thereto". Observing in para 5, that Dr.Nikhil Tandon did not hold the qualification of DM, the Supreme Court proceeded to consider the claim of Dr.Nikhil Tandon as to how he claims equivalence. Claim of Dr.Nikhil Tandon, as noted in para 6 of the judgment, was as under :

"After obtaining his MD, Tandon went to United Kingdom and was working in the Cambridge University for Ph.D. qualification. He joined Ph.D. course there on 17.4.1990. By 17.4.1992, he had completed two years. As a matter of fact, he completed his three years" course on 17.4.1993 and it is stated that he obtained his Ph.D. qualification on 22.6.1993. Tandon says, his two years" training at Cambridge University while working for Ph.D. is the qualification recognised as equivalent to DM."

19. In para 8 of the judgment, their Lordships of the Supreme Court noted the argument of Dr.Nikhil Tandon. The argument was as under :

"It is contended that two years" special training in Endocrinology need not be in an Institute in India or, for that matter, any recognised or approved institution in India and that it is enough if such special training is obtained in any institution of repute. Learned counsel stressed the well-established reputation of the Cambridge university where Tandon was undergoing the training and doing research for his Ph.D. Reliance was also placed upon the letter dated 16.9.1993 issued from the medical Council of India addressed to Tandon, which reads as follows :

MEDICAL COUNCIL OF INDIA

No.MCI-12(1)/93-Med./14815 dated:16.9.93

To,

Professor P.N.Tandon,

Deptt. of Neurosurgery,

All India Instt. of Medical Sciences,

Ansari Nagar,

New Delhi-110029.

Sub: Teachers Eligibility Qualification-Appointment of persons to the different posts of teachers in the Deptt.of Endocrinology.

Sir,

With reference to your letter dated nil on the subject noted above, I am to state that the Medical Council of India in its recommendations on Teachers Eligibility Qualifications to the different posts of teachers in the Deptt. of Endocrinology have prescribed as under :

Post

Qualification

Teaching Exp.

Professor

DM(Endocrinology) MD in Medicine with 2 years" special training in Endocrinology.

(a) As Reader in Endocrinology for 4 years in a medical college.

Reader

-do-

(b) As Lecturer in Endocrinology for 5 years in a medical college.

Lecturer

-do-

(c) Requisite recognised post graduate qualification in the subject.

It is clarified that a person is eligible to be appointed as teacher in the speciality either with DM (Endocrinology) or with MD in Medicine with 2 years" special training in Endocrinology."

20. Repelling the contention of Dr.Nikhil Tandon, their Lordships in para 12 of the judgment held as under :

"We are of the opinion that the two years" training at Cambridge University

undergone by Tandon while working for the Ph.D. cannot be treated as a qualification recognised as equivalent to DM. Schedule I to the AIIMS Recruitment Rules speaks of DM qualification or a qualification recognised as equivalent. It is not mere equivalence that is enough. It must also be recognised as equivalent."

21. Observations of the Supreme Court in para 13 of the judgment are equally relevant and may be noted. In para 13, it was observed as under :

"It is also not possible to agree with the learned counsel for the appellants that because the Institute was of the opinion that Tandon was qualified according to the Rules and forwarded his name for consideration by the selection committee, it amounts to "recognition" of the said two years" training as a recognised equivalent qualification. Recognition must be by a general order/proceeding published for the information of all concerned. It cannot be a matter decided in a given case for the purpose of that case."

22. Decision of the Supreme Court in Dr.Nikhil Tandon's case (supra) would reveal that Dr. Nikhil Tandon was in fact contending that qualifications obtained by him i.e. research work during Ph.D. was comparable to DM and as a consequence should be recognised as equivalent to DM. Decision would reveal that showing equivalence by comparison was not enough. What was relevant, was being recognised as equivalent. In para 13, the Supreme Court emphasised that the recognition of equivalence has to be by a general order/ proceeding published for the information of all concerned, and it could not be a matter to be decided in a given case for the purpose of that case.

23. In my opinion, equivalence of a degree has to be vis-a-vis a degree. It would be impermissible to seek equivalence by co-joining two degrees or by co-joining a degree followed by a diploma. It must be kept in mind that candidates must be aware of their right to apply in response to an advertisement. If equivalence has to be reduced to comparison, it would mean that virtually all and sundry, by placing reliance on their degrees and co-joining the same with a diploma, would contend that the effect of the two is that they have acquired educational qualifications of a comparative standard.

24. Merely because the petitioner has attained proficiency is not enough. Sympathy would not be determinative or source of guidance to interpret law. As observed by the Supreme Court in the decision reported as Haryana Urban Development Authority and Another Vs. Roochira Ceramics and Another, , personal justice is no ground to give relief under Article 226 of the Constitution of India.

25. Petitioner admittedly does not have a Graduation or Post Graduation Degree in Computer Applications. It is not permissible to treat equivalence by replacing it with comparable and that too, arriving at comparability by co-joining a degree with a diploma.

26. The writ petition is dismissed. No costs.