
(1990) 08 RAJ CK 0030
In the Rajasthan High Court
Case No : Civil Special Appeal No. 33 of 89

Sardara Ram Dangi

APPELLANT

Vs

District Judge and Another

RESPONDENT

Date of Decision : 23-08-1990

Acts Referred:

HINDI SAHITYA SAMMELAN ACT, 1962 — Section 4, 6
University Grants Commission Act, 1956 — Section 2, 3

Citation : (1990) 2 RLW 36 : (1990) 2 WLN 441

Hon'ble Judges : N.K. Jain, J;Milap Chand Jain, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.C. Jain, J.—This special appeal is directed against the order of the learned Single Judge dated 1.9.90. where by the learned single Judge dismissed the appellant's writ petition.

2. The appellant Sardararam Dangi was appointed as class IV servant on 16.5.80. He passed the "Prathma" examination of Hindi Sahitya Sammelan in the year 1983 and that examination has been recognized or Government of Rajasthan as equivalent to the Secondary Examination of the Board of Secondary Education, Rajasthan, Ajmer vide Ex. 2. Rule 10 (2) of the Rajasthan Subordinate Courts Ministerial Rules, 1986 provides Secondary or its equivalent qualification recognized by the State Government to be the qualification for the post of Lower Division Clerk, Upto 10% Class IV employee can be appointed as Lower Division Clerks in accordance with Circular of the High Court, if persons have put in five years service and possess the requisite qualification for appointment of the post of Lower Division Clerks. There is a further Roster system applicable in accordance with which the vacancies have to be filled up to from the reserved quota of Scheduled Castes and Scheduled Tribes. The petitioner's claim is that he is eligible for promotion to the post of Lower Division Clerk as he fulfills the requisite qualifications and other conditions. He further claims his promotion on

the basis of Scheduled Caste quota. The petitioner made representation in this regard but with no consequence. The petitioner, therefore, prayed that a direction be given to the respondents to promote the petitioner according to the Roster System from the date Shri Iqbal was promoted. He also prayed that notification Ex. 12 and the Circular Ex. 13 may be quashed.

3. Reply to the writ petition has been filed and rejoinder has also been filed. We would be dealing with the case of the respondents while considering the arguments advanced on behalf of the appellant.

4. We have heard Mr. M.R. Singhvi, learned Counsel for the appellant and Mr.N.S. Acharya learned Additional Government Advocate for the State.

5. Before proceeding to consider the contention advanced by the learned Counsel for the appellant in our opinion, it would be appropriate to refer to the relevant rule. The relevant rule is 10 (2) of the Rajasthan Sub-ordinate Courts Ministerial Establishment Rules, 1986 (for short "the Rules of 1986"), it reads as under:

10. Academic Qualifications:

1...

2. A Candidate for direct recruitment to the general cadre must have passed the Secondary Examination of the Rajasthan Board of Secondary Education or any Examination of a University or Board recognized as equivalent there to by the Government or any higher examination, and must in addition possess a good knowledge of Hindi written in Devanagari Script: Provided that the above condition shall not apply to the physically handicapped persons who shall be eligible for recruitment and appointment to the earmarked and reserved posts in accordance with the Rajasthan Employment of the physically Handicapped Rules, 1976 and orders of the Government issued from time to time in this behalf.

6. A bare perusal of the above rule shows that sub Rule (2) of Rule 10 of the Rules of 1986 prescribes Academic Qualifications for direct recruitment to the general cadre, which consists of various posts mentioned in Part II. Rule 5. deals with strength of staff. The Lower Division Clerks at S. No. (6) fall in the category of general cadre. A candidate for direct recruitment in general cadre is required to possess the qualification of having passed the Secondary Examination of the Rajasthan Board of Secondary Education or he is required to pass any examination of a University or Board recognized as equivalent to that by the Government or any higher examination. Besides passing of such examination, a candidate is also required to possess good knowledge of Hindi Devanagari Script. So far as qualifying examination is concerned, it would appear that a candidate must pass Secondary Examination of the Rajasthan Board of Secondary Education or any equivalent examination of a University or Board so recognized by the Government. The question that arises for consideration in the present appeal is as to whether the appellant possesses the prescribed qualification under Rule 10. The appellant has passed the "Prathma" examination in the year

1983 as would be evident from the mark sheet Ex.1. The Prathma" examination is conducted by the Hindi Sahitya Sammelan, Allahabad (Hindi University). In Prathma examination, he also appeared in the subject "English" and secured 25 marks out of 50 marks in English. The question is as to whether the Prathma examination of Hindi Sahitya Sammelan (Prayag), Allahabad has been recognized by the State Government as equivalent to the Secondary Examination of the Rajasthan Board of Secondary Education. In order to establish that the Prathma Examination is an equivalent examination, the appellant recognizing the Prathma examination. If we look at the order dated 13.5.74 (Ex.2), it would appear that the Prathma examination has been recognized as equivalent to High School or Higher Secondary First Year Examination but it has been recognized for Hindi standard only. The recognition is a limited recognition and is not a general recognition that the Prathma Examination is equivalent to the Secondary Examination of the Rajasthan board of Secondary Education. Only for Hindi standard, it has been recognized as equivalent examination. Thus, on the basis of Ex.2, in our opinion, the appellant's claim is unfounded and on the basis of Ex.2., it cannot be found that the appellant has passed examination recognized by the State Government equivalent to the Secondary Examination of the Rajasthan Board.

7. "Mr. Singhvi, learned Counsel for the appellant further contended that in Part II of Sub-rule(2) of Rule 10 of the Rules of 1986, the word "or" should be read as disjunctively and no examination of any University is required to be recognized. It is only when any examination is conducted by the Board that is required to be recognized by the State Government for equivalence but for University examination, such recognition is not necessary. We are unable to agree with the contention of the learned Counsel for the appellant. The expression "or any examination of a University or Board recognized as equivalent thereto by the Government" is to be read as a whole and the word "or" occurring in between the two words; "University and Board" is not to be read in the manner as contended by Mr. Singhvi, learned Counsel for the appellant. An examination whether conducted by the University or by the Board is required to be recognized by the State Government as equivalent to the" Secondary Examination of the Rajasthan Board of Secondary Education. The word "University" cannot be read separately. The word "Examination" occurring in the aforesaid expression refers to the examination of the University as well as of the Board so, recognition of such examination is necessary by the Government as equivalent to the Secondary Examination of the Rajasthan Board of Secondary Education. This contention was advanced on the basis that the Hindi Sahitya Sammelan (Prayag) is a Hindi University. This contention proceeds on the assumption that Hindi Sahitya Sammelan(Prayag) is University. It has to be examined as to whether Hindi Sahitya Sammelan Prayag is at all a University. If it is not found to be a University or a deemed University, then the aforesaid contention of the learned Counsel that the word "or" should be read disjunctively will not arise. Although we have considered the contention that

the word "or" is to be read as disjunctively assuming that the contention of the learned Counsel for the appellant has force, that Hindi Sahitya Sammelan is a University.

8. Mr. Singhvi, learned Counsel for the appellant referred to Section 2(f) and Section 3 of the University Grants Commission Act, 1956. The expression "University" is defined u/s 2(f) as under:

2 Definition--In this Act, unless the context otherwise requires:

(a) ...

(b) ...

(c) ...

(d) ...

(e) ...

(f) "University" means a University established or incorporated by or under a Central Act, a provincial Act or a State Act and includes any such institution as may, in consultation with the university concerned, be recognized by the Commission in accordance with the regulations made in this behalf under this Act.

Section 3 makes provisions of the Act applicable to the Institution for higher studies other than Universities. Section 3 reads as under:

3. Application of the Act to institutions for higher studies other than Universities--The Central Government may, on the advice of the Commission, declare by notification In the official Gazette, that any institution for higher education, other than a University shall be deemed to be a University for the purpose of this Act, and on such a declaration being made, all the provisions of this Act shall apply to Such institution as if it were a University within the meaning of Clause (f) of Section 2.

Under Section 3, the Central Government is empowered on the advise of the Commission to declare by notification in the official Gazette that any institution for higher education other than a University shall be deemed to be a University for the purpose of this Act and if such institution will attract the applicability of the Act as if it is a University within the meaning of Section 2(f) In order to establish that the Government has so declared Hindi Sahitya Sammelan (Prayag), reference was made to the Hand Book for Personnel & Administrative Reforms, Cabinet Secretariat, New Delhi. In Clause(E) at page 145 under heading Degrees, Diplomas and Certificates recognized for Recruitment, it is stated-(1) Those awarded by the Universities in India incorporated by an Act of the Central or State Legislature and other educational institutions established by an Act of Parliament or declared to be deemed to be Universities u/s 3 of the University Grants Commission Act, 1956 There is reference to Annx.I appended to it. Annexure-1 contains a list of the Universities and Institutions, which have been

declared to be deemed to be Universities. Names of 85 Universities have been mentioned in Annx.I and under the Heading "Institutions deemed to be Universities". 9 institutions have been mentioned and under the Heading "Institutions of National Importance also names of 9 institutions appear. Under the list of Institutions of National Importance, at S.No.2 there appears the name of "Hindi Sahitya Sam melon (Prayag), Allahabad. From Annx.I, therefore, it would appear that Hindi Sahitya Sammelan (Prayag) is included in the list of the Institutions of National Importance and its name is riot included in the list of deemed Universities, the requirement of Section 3 of the University Grants Commission Act, 1956 for deeming any institution to be a University is that there should be declaration by the Central Government to that effect in the official Gazette. If any institution of National Importance is so declared in the official Gazette, then, it should be taken as deemed University. We have not been referred to any notification declaring Hindi Sahitya Sammelan (Prayag), Allahabad to be a University u/s 3. Simply on the basis of Annx.I, it cannot be found that the Central Government has issued any notification in the official Gazette declaring Hindi Sahitya Sammelan (Prayag) to be a deemed University. It may be an Institution of National Importance but in the absence of such notification, in the official Gazette, Hindi Sahitya Sammelan cannot be treated as a deemed University under the said Act.

9. The Hindi Sahitya Sammelan (Prayag) is no doubt a creature of statute. It has been incorporated under the Hindi Sahitya Sammelan Act, 1962. Section 4 of this Act of 1962 makes a provision for constitution of a body corporate by the name of Hindi Sahitya Sammelan. It has a perpetual succession having a common seal with powers, which have been conferred under the Act. Section 6 of this Act deals with the functions of the Sammelan. Section 6, inter alia, provides that the Sammelan shall perform the functions viz. (d) to arrange for the holding of examinations through the medium of Hindi language and to confer degrees, diplomas and other academic distinctions. So, it is an institution under the Act and it arranges for holding of examination and for conferment of degrees etc.

10. It has been contended that the Hindi Sahitya Sammelan is an institution of National importance and is deemed to be a University, so, any further order of recognition by the State Government is not necessary as would be evident from the Government order deled 8.7.88. It supersedes the earlier order (Ex.2) as no separate recognition is necessary in case of examinations conducted by the University or by a deemed University.If any institution of national Importance is a deemed University, then, any examination conducted by such deemed University does not require further recognition by the Government. On the basis of that examination, it should be taken that for the purpose of employment, the candidate must possess the requisite qualification. The Government order tated 8.7.1988 is reproduced as under:

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11. This order refers to the earlier Central Government orders and with reference to those orders, it states that the Universities, which have been established under the Central Act or State Act, or the Institutions, which have been declared to be deemed Universities u/s 3 of the University Grants Commission Act, 1956, the Degrees conferred by them would stand recognized for the purpose of employment and no order of recognition is required in connection with the qualifying examination passed from the Universities or from the deemed Universities. Suffice it to say that this order is applicable to the Universities and to the deemed Universities. In case Hindi Sahitya Sammclan is found to be a deemed University, then, it can be said that separate order of recognition of equivalence is not necessary. We have already considered above, that the petitioner has not been able to establish that the Hindi Sahitya Sammclan (Prayag), Allahabad is a deemed University u/s 3 of the University Grants Commission Act, 1956 and as such the aforesaid Government order dated 8.7.1988 cannot be pressed into service by the learned Counsel for the appellant.

12. No other point has been pressed before us.

13. In the result, this special appeal has no force, so, it is hereby dismissed.