
(2009) 04 DEL CK 0055

In the Delhi High Court

Case No : Writ Petition (C) No. 3058 of 1999

Sh. G. Prasad Mishra

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 22-04-2009

Acts Referred:

Citation : (2009) 04 DEL CK 0055

Hon'ble Judges : Kailash Gambhir, J

Bench : Single Bench

Advocate : Nasreen Hasan, for the Appellant; Shilpa, for UOI and R.S. Mathur, for the Respondent

Final Decision : Dismissed

Judgement

Kailash Gambhir, J.—By way of this petition the petitioner seeks directions to direct the respondent bank to give due weightage of seniority of two years to the petitioner on the basis of petitioner's qualification. Counsel appearing for the petitioner submits that as per the Shastri award and the bipartite settlement a clerk employed in the services of the bank is entitled for the grant of two advance increments on his acquiring a graduate degree or an equivalent examination. Counsel further submits that the petitioner had passed a Madhya (Visharad) examination of Hindi Sahitya Sammelan, Prayag conducted by Hindi, Visvidyalaya in 1972 and Uttma (Saithya Ratan) examination conducted by the same Vishividalaya in the year 1976. Counsel further submits that Government of India, Ministry of Education published a press advertisement in the newspaper declaring Madhya (Visharad) examination of Hindi Saithya Sammelan as equivalent to B.A. and Uttma (Sahitya Ratan) as equivalent to B.A. (H). Counsel further submits that in view of the said notification and after the petitioner had qualified the said exam, the petitioner was paid two increments w.e.f. 1.7.1972, but subsequently the respondent bank had withheld the said benefits but again released the same with effect from 1st August, 1974. After passing the Sahitya Ratna examination the petitioner got admission in MA (Hindi), Merrut University.

Counsel further submits that the petitioner has already retired in July, 2007, but his gratuity has been withheld by the bank. Contention of the counsel for the petitioner is that the petitioner was given admission in Meerut University after he was found to be in possession of graduate decree, otherwise he would not have been eligible to secure admission in MA (Hindi) Counsel further submits that the Government of India Notification shall get due weightage over the decision of the bank. Counsel thus submits that decision of the respondent bank to withhold the increments is ex facie illegal.

2. Refuting the said submissions of counsel for the petitioner, counsel for the respondent submits that the petitioner got two increments sanctioned due to misrepresentation made by him by stating that he became graduate by passing Madhyama course. Counsel further submits that the payment of the said two advance increments was immediately withheld after the bank came to know about the said qualification of the petitioner not being equivalent to BA degree. With regard to the decision of this Court in WP (C) No. 898/74 in the case of Shri K.B. Tandon counsel submits that the said matter was remanded back by this Court to afford fresh opportunity to him but before taking any decision in his case he was terminated from his services. Counsel thus submits that the qualification of Madhyama (Visharad) acquired by the petitioner is not equivalent to fullfledged BA degree (Graduate) as per Central Office Circular No. CO:88:315 dated 24.6.1988 and Circular No. CPD:CIR:76/C1/1012 dated 10.11.2001. Counsel further submits that even Hindi Sahitya Sammelan, Prayag, Allahabad wherefrom the said course of Madhyama (Visharad) was undertaken by the petitioner was not a full-fledged University. Counsel further submits that any subsequent qualification acquired by the petitioner by taking admission in MA course or in Sahitya Ratna are irrelevant as the entitlement of the petitioner was based on his possessing degree of graduation, which was never possessed by the petitioner.

3. I have heard counsel for the parties at considerable length and gone through the record.

4. It is not in dispute that the petitioner claimed grant of two advance increments in terms of the policy of the bank circulated vide circular No. CO:88:315 dated 24.6.1988 and Circular No. CPD:CIR:76/C1/1012 dated 10.11.2001. relevant portion of the Circular is referred as under:

2.1 Degree/Diplomas awarded by the Universities established by an Act of Parliament or State Legislature which stand automatically recognized by the Government of India for the purposes of recruitment under the Central Government.

For ascertaining whether any degree is equivalent to a degree in the general set up, it may be examined whether such degree is accepted as the required qualification for admission into a post graduate course (other than Hindi/ Sanskrit) of a recognized university or if the degree is accepted by the Banking

Service Recruitment Board (BSRBs) for recruitment of Probationary Officers or the Union Public Service Commission for which the minimum qualification is a graduation in any discipline.

2.2. Diploma in Rural Service of the National Council for Rural Higher Education may be recognized as equivalent to a first degree of the University and the national Diploma in Commerce for the purpose of grant of increments and/or Special Allowance (s).

2.3 Increment for graduation may be granted to the employees who obtain Degrees from any recognized university through correspondence courses provided the same are recognized by the union Public service Commission as an equivalent to a degree for the purpose of recruitment to Central Government Services.

2.4 The Government Diploma in Architecture awarded by the Government of Maharashtra and Diploma in Architecture of Kalabharan Technical Institute, Baroda, will be treated at par with graduation and two increments would be granted to the employees having this qualification, provided the employee concerned is employed in the Clerical cadre and is required to work as a draftsman or in a similar capacity in the Architectural Department, where his technical knowledge would be useful.

2.5 Purva Madhyama, Uttar Madhyama and Sastry Examination of the Varanaseya Sanskrit Vishwavidyalaya, Varanasi, may be treated as equivalent to High School, Intermediate, B.A. degree, respectively, provided English was one of the subjects, in line with the Government of India and Government of U.P.'s decision in the matter.

5. It would also be relevant to reproduce the contents of letter dated 10.11.2001 which are under:

November 10, 2001

Nominated Officers of Public & Private Sector Banks

Dear Sir,

Recognition of Hindi Examination conducted by Voluntary Hindi Organisations.

As per Bipartite Settlement, for degrees awarded by the Universities established by an Act of Parliament or State Legislature or by Educational Institutions declared as equivalent to Universities formed under UGC Act, two increments are payable in the scale of pay.

Banks have sought our guidance in respect of persons claiming promotion, graded increments for acquiring Hindi qualification and equating the same with regular SSLC/HSC/Graduation.

This matter was referred to Govt of India for clarification. In response to our request, Govt of India, Central Hindi Directorate, Deptt. of Secondary and Higher

Education, New Delhi vide their letter dated 17.9.2001 has clarified that examinations conducted by Voluntary Hindi Organisations have been recognized only with regard to the standard of Hindi prescribed in the equivalent Hindi examination and as such these examinations are not to be treated as equivalent to the full fledged Degree /Diploma or Certificate granted by universities or Education Boards.

For your ready reference we are enclosing letter of Govt. of India. Banks are advised to be guided accordingly.

Sd/-

(Himadri Dutta)

Asst. Personnel Advisor

6. The petitioner while in service had passed Madhya (Visharad) examination of Hindi Sahitya Sammelan, Prayag, Allahabad which as per the respondent is not equivalent to full-fledged B.A. degree in terms of the said policy of the respondent Bank. I find considerable merit in the stand taken by the respondent. Undoubtedly, in the said circular No. CO:88:315 dated 24.6.1988 clearly the test prescribed is, whether any degree is equivalent to a General Degree or not would be decided from the angle whether such a degree would be accepted as a regular qualification for admission into a post graduation course other than "Hindi/ Sanskrit" that too from a recognized university.

7. It would clearly mean that merely because a person is able to secure admission in the post graduation level in Hindi/Sanskrit course that would not make him eligible for the grant of the said advance increments. In Clause 2.5 of the said policy further it was clarified that Purva Madhyama, Uttar Madhyama and Sastry Examination of the Varanaseya Sanskrit Vishwavidyalaya Varanasi, examination may be treated as equivalent to High School, Intermediate, B.A. degree, respectively, provided English was one of their main subjects, The copy of the marksheet placed on record by the petitioner clearly shows that in the examination of Madhyama/Visharad undertaken by the petitioner "English" was not one of the subjects. This position also finds support from the letter dated 10.11.2001 from Indian Bank Association wherein it is pointed out that examination conducted by voluntary Hindi organizations are not to be treated as equivalent to full-fledged degree/diploma as the same has been recognized only with regard to the standard of Hindi prescribed in the equivalent Hindi examination. Simply because the petitioner was granted admission in MA in Meerut University in itself would not entitle the petitioner to claim advance increments as clearly the qualification Madhyama (Vishrad) obtained by the petitioner cannot be said to be equivalent to level of graduation in terms of the policy of the Bank.

8. In the light of the above position, I do not find there is any merit in the present writ petition. The same is accordingly dismissed.