

(2014) 10 P&H CK 0124
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 20616 of 2013

Shiv Kumar and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 01-10-2014

Acts Referred:

University Grants Commission Act, 1956 — Section 3

Citation : (2015) 2 SCT 160

Hon'ble Judges : Tejinder Singh Dhindsa, J

Bench : Single Bench

Advocate : Inder Pal Goyat, Advocates for the Appellant; Harish Rathee, Senior Deputy Advocate General, Advocates for the Respondent

Judgement

Tejinder Singh Dhindsa, J.—This order shall dispose of Civil Writ Petition Nos. 20616 of 2013 (Shiv Kumar and others v. State of Haryana and others), 19608 of 2012 (Manju Yadav v. State of Haryana and others), 23776 of 2012 (Alka Rani v. State of Haryana and others), 8956 of 2013 (Kumari Varsha v. State of Haryana and another), 10750 of 2013 (Jagdish Chander and others v. State of Haryana and others), 11773 of 2013 (Bijender Kumar v. State of Haryana and others), 14185 of 2013 (Vijay Pal and another v. State of Haryana and others), 4310 of 2014 (Manju Yadav v. State of Haryana and others), 11520 of 2014 (Bhanu Partap Sharma v. State of Haryana and others), 13342 of 2014 (Vinod Kumar v. State of Haryana and others), 17940 of 2014 (Sunil Kumar and others v. The State of Haryana and others), 17959 of 2014 (Anil Kumar v. The State of Haryana and others) and 19377 of 2014 (Anant Ram v. The State of Haryana and others) as identical issue is involved in these petitions. The petitioners in these bunch of petitions assail the action of the Haryana School Teachers Selection Board (hereinafter to be referred as "the respondent-Board") in having rejected their candidature for the post of Post Graduate Teacher (Sanskrit) (for short as "PGT Sanskrit") on the ground that they do not possess the essential qualification prescribed for the post i.e., M.A. Sanskrit.

2. Facts, in brief, are that the respondent-Board issued advertisement No. 1/2012 dated 7.6.2012 inviting applications from eligible candidates for recruitment to various posts including 1465 posts of PGT Sanskrit. As per advertisement, the common educational qualifications prescribed for all the advertised posts were as follows:

"(a) Matric with Hindi/Sanskrit or 10+2/BA/MA with Hindi as one of the subject.

(b) Certificate of having qualified Haryana Teacher Eligibility Test (HTET/School Teachers Eligibility Test (STET) of respective subject for the post applied, conducted by Board of School Education Haryana, Bhiwani. One time exemption of HTET (See Note-2).

(c) Consistent good academic record (See Note-1).

(d) Essential qualification (EQ) is given with each post."

3. In addition thereto, the essential qualification described for the post of PGT Sanskrit was M.A. in Sanskrit with at least 50% marks and B.Ed. from a recognized University.

4. Petitioners in these petitions possess the qualification of Acharya in Sanskrit either from the Rashtriya Sanskrit Sansthan Janakpuri, New Delhi or from Shri Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeeth, New Delhi. The sole petitioner, namely, Anil Kumar in Civil Writ Petition No. 17959 of 2014, has qualification of Acharya from Jagadguru Ramanandacharya Rajasthan Sanskrit University, Madau, Jaipur.

5. The petitioners who possess the qualification of Acharya from Rashtriya Sanskrit Sansthan Janakpuri, New Delhi have placed reliance on letter dated 18.7.1972 issued by the Government of India, Department of Personnel whereby Government of India, in consultation with the Union Public Service Commissioner, has decided to recognize the examination of Acharya conducted by the Rashtriya Sanskrit Sansthan Janakpuri, New Delhi as equivalent to that of M.A. Reference has also been made to the letter dated 2.9.1974 issued by the Commissioner, Government of Haryana, Education Department on the subject of grant of recognition to the Sanskrit Examinations of Rashtriya Sanskrit Sansthan and a decision having been taken by the Haryana Government that the examination of Acharya conducted by Rashtriya Sanskrit Sansthan to be equivalent to examination/degree of M.A. Aforenoticed letter dated 18.7.1972 issued by the Government of India and letter dated 2.9.1974 from the Government of Haryana, Education Department stand appended as Annexures P25 and P26 along with Civil Writ Petition No. 20616 of 2013.

6. Such petitioners who possess qualification of Acharya from Shri Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeeth, New Delhi, placed reliance upon office memo dated 9.8.1996 issued by Government of India, Ministry of Personnel, P.G. and Pensions whereby Shri Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeeth, New Delhi having been declared as Deemed University under Section 3 of the

U.G.C. Act, 1956, the examination of Acharya conducted by such Vidya Peeth has been taken as equivalent to that of M.A. Reference has also been made to the letter dated 30.4.1998 issued by the Financial Commissioner and Secretary, Government of Haryana, Department of Education granting recognition to the degrees awarded by Shri Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeeth, New Delhi and thereby treating degrees of Shastri, Acharya, Shiksha Shastri as equivalent to B.A., M.A. and B.Ed. respectively. Aforenoticed office memo dated 9.8.1996 and letter dated 30.4.1998 stand appended as Annexures P27 and P28 along with Civil Writ Petition No. 20616 of 2013. Petitioner Anil Kumar in Civil Writ Petition No. 17959 of 2014 has also staked the claim that he is eligible for the post of PGT Sanskrit on the basis of his qualification of Acharya from Jagadguru Ramanandacharya Rajasthan Sanskrit University, Madau, Jaipur stating the same to be the recognized University by the University Grants Commission.

7. In a nut-shell, learned counsel appearing for the petitioners would contend that the petitioners by virtue of possessing recognized and equivalent qualification to that of M.A. Sanskrit, their candidature for the post of PGT Sanskrit could not have been rejected.

8. Mr. I.P. Goyat, learned counsel appearing for the petitioners in Civil Writ Petition No. 20616 of 2013 has even raised a plea of discrimination by contending that the respondent-Board is treating the qualification of Shiksha Shastri as a valid qualification as per equivalence with that of B.Ed., but is not extending the same benefit to the petitioners who possessed the qualification of Acharya in Sanskrit and which otherwise has been recognized to be equivalent to that of M.A. Sanskrit.

9. Mr. R.K. Malik, learned Senior Advocate and Mr. Nitin Jain, Advocate have raised an argument that in the case of some of the petitioners, the degree certificate possessed by them carries the qualification of not only Acharya but also M.A. Sanskrit. Accordingly, it has been urged that such petitioners possessed a dual degree i.e. of Acharya as also M.A. in Sanskrit and, as such, they were eligible in terms of the essential qualifications prescribed in the advertisement i.e., M.A. Sanskrit and, accordingly, the order of rejection of their candidature passed by the respondent-Board cannot sustain. Another limb of such argument raised by Mr. Malik, learned Senior Advocate in Civil Writ Petition No. 11773 of 2013 is that although the petitioners, initially, possessed the degree of Acharya, but since such qualification was equivalent to M.A. Sanskrit, accordingly, the candidates had applied for amended certificates and which were duly issued by the Institute concerned reflecting their qualification as M.A. Sanskrit. It has been vehemently argued that even though the amended certificate has been issued after the stipulated cut-off date provided in the advertisement, yet such amended certificate reflecting the candidate to be possessing the qualification of M.A. Sanskrit would relate back to the point of time when such examination was qualified and which, in any case, was much

prior to the cut-off date stipulated by the respondent-Board calling for applications in the advertisement.

10. Per contra, Mr. Harish Rathee, Senior Deputy Advocate General, Haryana and Mr. Sunil Nehra, Senior Deputy Advocate, Haryana would submit that statutory Rules for the Haryana State Education School Cadre (Group "B") Rules, 2012 have been promulgated and whereunder educational qualifications have been specified for the post of PGT Sanskrit as MA. Sanskrit with at least 50% marks and B.Ed. from a recognized University. Learned State counsel would submit that the word "equivalent" has not been used in the Rules as also in the advertisement issued by the respondent-Board wherein qualifications prescribed were pari-materia as contained in the Rules. It is submitted that the Acharya degree possessed by the petitioners cannot be said to be the required qualification for the posts and it is the prerogative of the State to determine the type of qualification which should be prescribed for a particular post and cadre and the State is justified in insisting upon the qualification as has been provided under the statutory Rules. Learned State counsel while justifying the action of the respondent-Board in rejecting the candidature of the petitioners for the post of PGT Sanskrit would contend that whenever specific qualifications are prescribed for the post, the incumbent for such a post would not be vested with an inherent right to seek the benefit of equivalent qualification in the absence of a clear stipulation inserted in the advertisement or under the Rules governing the post, indicating the power with the State or the recruitment agency, as the case may be, to consider and appoint the incumbents possessing such qualifications. It is submitted that in the advertisement as also under the Rules, there was no indication as regards considering candidates possessing equivalent qualifications and as such, the petitioners cannot compel the respondents to treat the qualification of Acharya on the basis of equivalence to be the valid and essential qualifications for the post of PGT Sanskrit.

11. Learned counsel for the parties have been heard at length and the pleadings on record have been perused.

12. At the very outset, the contention raised on behalf of some of the petitioners to the extent that the degree possessed by them indicated not only Acharya but also M.A. Sanskrit and as such, they were eligible for the post of PGT Sanskrit from the very inception and were not seeking any benefit by way of equivalence, is rejected being wholly misplaced. The documents appended as Annexures P25 to P28 along with Civil Writ Petition No. 20616 of 2013 reflect decisions having been taken by the Government of India as also State of Haryana with regard to the examination of Acharya in Sanskrit being treated as equivalent to that of M.A. Clearly, the word "M.A. Sanskrit" finding a mention in the degrees possessed by some of the candidates/petitioners is only indicative and in token of recognition of their qualification of Acharya as equivalent to M.A. Sanskrit. As such, even as regards such petitioners, the claim for consideration for recruitment to the post of PGT Sanskrit is on the basis of possessing, essentially,

the Acharya qualification which, in turn, may be equivalent to M.A. Sanskrit.

13. Even the plea of discrimination raised by Mr. IP Goyat, learned counsel for the petitioner in Civil Writ Petition No. 20616 of 2013 as regards the respondent-Board treating candidates eligible and who possess the qualification of Shiksha Shastri on the basis of equivalence of B.Ed. has been clarified by Mr. Rathee by taking a categorical stand that under the Statutory Service Rules, 2012, there is no equivalency provided between Shiksha Shastri and B.Ed. and, as such, the respondent-Board has not considered candidates possessing the qualifications of Shiksha Shastri to be eligible.

14. The short question, as such, that arises for consideration in these petitions is as to whether the petitioners can be considered eligible for the post of PGT Sanskrit on the basis of equivalent qualification of Acharya possessed by them as against the essential qualification of M.A. Sanskrit provided under the statutory Rules as also as per the advertisement?

15. Such issue is no longer *res integra*. Precisely, the same issue pertaining to candidature of candidates for the post of PGT Sanskrit and relating to the same very recruitment process initiated by the respondent-Board vide advertisement dated 7.6.2012 came up for consideration before a Co-ordinate Bench of this Court in Civil Writ Petition No. 19263 of 2013, titled as "Vikas Sharma and others v. State of Haryana and others" and other connected petitions decided by a common judgment dated 20.1.2014. The petitioners in the case of Vikas Sharma (*supra*) and connected petitions were possessing the Acharya degree from Kurukshetra University, Kurukshetra and from Sampurnanand Sanskrit University, Varanasi. It was their case by placing reliance upon communications issued by the Ministry of Personnel PG and Pensions that the Acharya Degree held by them was equivalent to the prescribed qualification of M.A. Sanskrit. The claim of the petitioners in Vikas Sharma's case (*supra*) and other connected petitions was negated by the writ court by holding as follows:

"The qualifications prescribed in the advertisement and the 2012 Rules are identical for appointment to the post of PGT Sanskrit. The same read as follows:-

"M.A. Sanskrit with at least 50% marks and B.Ed. from recognized University".

There is no equivalence clause mentioned therein and the qualifications are clear and specific i.e., M.A. Sanskrit with at least 50% marks. The Full Bench judgment of this Court in *Som Dutt Vs. The State of Haryana and Another*, wherein it has been held that it is the prerogative of the employer to provide for the qualifications for appointment to the post and it can insist upon the qualifications so prescribed under the statutory rules. If no equivalence clause has been provided under the Rules and the qualifications are clear and specific, the equivalence or otherwise of the qualification possessed by a candidate cannot be taken into account. Therefore, it cannot be said that the action of the respondents in insisting upon the statutory qualification prescribed in the Rules applicable to the post in question cannot be insisted upon by the respondents.

Since, Acharya is not a prescribed qualification under the statutory rules nor is there any equivalence clause, the claim of the petitioners cannot be accepted."

It was further held as under:

"Reliance upon the Central Government letter dated 21.11.1990 issued by the Ministry of Personnel, PG & Pensions (Department of Personnel & Training), New Delhi, to contend that the Acharya degree is equivalent to the M.A. degree, cannot be pressed into service to the benefit of the petitioners as it is the right, privilege and prerogative of the employer to accept a particular qualification as equivalent or not. In any case, in the present case, there is no question of treating an equivalent qualification when there is no such discretion provided for under the statutory rules. The qualification under the statutory rules being clear and specific i.e., M.A. Sanskrit with at least 50% marks, the Court cannot import such a condition/qualification which would make the candidate possessing an equivalent degree eligible for appointment when the statutory rules do not permit so."

16. It has gone uncontroverted that the judgment rendered by the learned Single Judge in Vikas Sharma's case (supra) has been affirmed by the Letters Patent Bench by way of dismissal of Letters Patent Appeal Nos. 1121 and 1149 of 2014 on 10.9.2014.

17. As such, the issue raised in these bunch of petitions stands answered in terms of judgment rendered by this Court in Vikas Sharma's case (supra) and against the petitioners. Accordingly, these petitions are dismissed in the light of judgment dated 20.1.2014 passed by this Court in Civil Writ Petition No. 19263 of 2012 (Vikas Sharma and others v. State of Haryana and others) and other connected petitions.