
(2013) 11 SC CK 0057

In the Supreme Court Of India

Case No : Civil Appeal No. 9902 of 2013 (Arising out of Special Leave Petition (Civil) No. 13955 of 2009) and Civil Appeal No's. 9903, 9904, 9905 and 9906 of 2013 (Arising out of Special Leave Petition (Civil) No. 14250 of 2009, 3338, 4629 and 3506 of 2010)

State of Uttarakhand and Others

APPELLANT

Vs

Deep Chandra Tewari and Another

RESPONDENT

Date of Decision : 01-11-2013

Acts Referred:

Constitution of India, 1950 — Article 309

Citation : (2013) 139 FLR 1068 : (2013) 13 SCALE 406

Hon'ble Judges : K.S. Panicker Radhakrishnan, J;A.K. Sikri, J

Bench : Division Bench

Advocate : Rachana Srivastava, for the Appellant; Anil Nag, Raj Singh Rana and V.B. Singh, for the Respondent

Final Decision : Disposed Of

Judgement

K.S. Panicker Radhakrishnan, J.—Leave granted.

2. The Director, School Education, Uttarakhand, issued an advertisement dated 7th August, 2008, inviting applications from eligible persons for appointment as Assistant Teachers (General) by way of direct recruitment. Para 5 of the advertisement referred to the educational qualifications, operative portion of which reads as follows:-

1. Bachelor degree in any of two subjects Geography, Economics, Political Science and History from any university established by law in India.

2. L.T. Diploma from any training institution/degree college.

3. In response to the aforesaid advertisement, Respondents applied mentioning the qualifications as B.Ed. with Specialisation in Vocational Education. Since the Respondents did not hold the decree as per the prescribed rules and notification, applications submitted by the Respondents were not considered. Aggrieved by

the same, the Respondents filed Writ Petition No. 1035 of 2007 before the High Court of Uttarakhand at Nainital. Learned Single Judge of the High Court vide order dated 1.9.2008 allowed the Writ Petition and set aside the rejection of the candidature of the Respondents for the post of Assistant Teacher (L.T. Grade). Direction was also given to the Appellant to process the applications submitted by the Respondents. Aggrieved by the said order, the Appellants took up the matter in appeal before the Division Bench of the High Court. The Division Bench dismissed the appeal, against which this appeal has been preferred.

3A. Ms. Rachana Srivastava, learned Counsel appearing for the Appellants, submitted that there is a marked difference between the B.Ed. degree and the B.Ed. with Specialisation in Vocational Education. The advertisement made mention of only B.Ed. degree and not B.Ed. with Specialisation in Vocational Education. Learned Counsel submitted that the High Court has committed a grave error in equating the B.Ed. degree with Specialisation in Vocational Education with B.Ed. degree simpliciter. Learned Counsel submitted that the appointment of Assistant Teacher (L.T. Grade) is made to impart education to students in schools for which a specialisation in vocational education is not warranted.

4. Mr. Anil Nag, learned Counsel appearing for the Respondents, on the other hand submitted that there is no marked difference between B.Ed. simpliciter and the B.Ed. degree with Specialisation in Vocational Education. B.Ed. degree obtained by the Respondents, it was submitted, is a composite degree which takes in its curriculum not only general subjects meant for B.Ed. simpliciter, but in addition subjects which are necessary for vocational training as well. Further, it was pointed out that M.J.P. Rohilkhand University grants B.Ed. degree in both general as well as B.Ed. degree with Specialisation in Vocational Education. Reference was also made to letter dated 13.7.2007 issued by the University. Learned Counsel submitted that the High Court has rightly held that the degree of Bachelor of Education, if passed with vocational education from a recognized University, shall not be, ignored for the purpose of admission in view of the advertisement issued by the State Government.

5. The Government of Uttarakhand, in exercise of powers conferred under proviso to Article 309 of the Constitution of India, framed the Uttarakhand Subordinate Education (Training Graduate Grade) Service Rules for the purpose of regulating recruitment and conditions of service of persons appointed under the said Rules. Rules were notified in the Official Gazette on 28th July, 2006. The Rules prescribed the qualification for Assistant Teacher in L.T. Grade as Bachelor Degree in concerned subject with the degree in Bachelor of Education (B. Ed.). The subjects approved under B.Ed. are as under:

- (1) Teaching in emerging Indian Society.
- (2) Development of learner and teaching learning process.
- (3) Essential of Educational Technology and Management.

- (4) Development of Education System in India.
- (5) Educational and Mental Measurement.
- (6) Teaching in Hindi.
- (7) Teaching of Social Studies.
- (8) Practical: Sessions work. Practical: Teaching skills.

6. The Appellants issued an advertisement on 7th August, 2006, inviting applications from eligible persons for appointment as Assistant Teachers/ Teachers by way of direct recruitment. The advertisement contemplated, inter alia, that the candidates should possess the essential academic qualifications as follows:-

- (a) The candidate should be graduate from a recognized University in two subjects from amongst Geography, Economics, Political Science and History.
- (b) The candidate should have L.T. diploma from any degree college or educational institution, recognized by the State Government or should be B.Ed. from any recognized University.
- (c) It was also provided that the candidate should have obtained necessary educational qualification prior to the date of publication of the advertisement. The educational syllabus should be recognized by N.C.T.E. which should be available on the website of N.C.T.E. prior to the date of advertisement.

7. The Respondents, it is seen, had done B.Ed. Specialisation in Vocational Education. B.Ed. Specialisation in Vocational Education provides the following:

- (1) Principle and Management in Education.
- (2) Psychological teaching Measurement
- (3) Method of Teaching
- (a) Business
- (b) Hindi
- (c) History
- (4) Ateraprenol Development
- (5) Typewriting
- (6) Office Management and Correspondence
- (7) Practical: Practice Teaching. Comprehensive.

8. We notice that the appointment of Assistant Teacher L.T. Grade is made to impart education to the students in schools on the subjects which are being sanctioned in the schools. When the advertisement simply says "B.Ed. degree", it

reveals what the appointing authority meant and what is meant is said, written and shown in the advertisement. If we go through para 5 of the notification in its entirety, we find wherever specialization is required, it has been specifically mentioned in the advertisement. For example, for appointment to the post of Assistant Teacher Drawing, the requirement is Bachelor degree in B.F.A. from any University established by law in India, for the post of Assistant Teacher Music, it has been stated that the requirement is Bachelor degree in Instrumental or Vocal in music from any University established by law in India. For the post of Assistant Teacher Home Science, it is stated the requirement is Bachelor Degree with Home Arts or Home Science from any University established by law in India and for the post of Assistant Teacher Commerce, the requirement is Bachelor degree in commerce from any University established by law in India.

9. We notice, however, for the post in question i.e. Assistant Teacher (General), the qualification is simply Bachelor degree in any of two subjects, Geography, Economics, Political Science and History from any university established by law in India, or L.T. Diploma from any training institution/degree college. If B.Ed. with Specialisation in Vocational Education was the required qualification, then it would have been specifically mentioned in the notification, which has not been done. Consequently, we have to take it that the B.Ed. degree mentioned in the advertisement is B.Ed. degree simpliciter and not B.Ed. with Specialisation in Vocational Education. The post to be filled up i.e. Assistant Teacher (General) nowhere indicates that for the purpose of appointment to the said post, specialization in vocational education is a necessary requirement.

10. We are conscious of the principle that when particular qualifications are prescribed for a post, the candidature of a candidate possessing higher qualification cannot be rejected on that basis. No doubt, normal rule would be that candidate with higher qualification is deemed to fulfill the lower qualification prescribed for a post. But that higher qualification has to be in the same channel. Further, this rule will be subject to an exception. Where the prescription of a particular qualification is found to be relevant for discharging the functions of that post and at the same time, the Government is able to demonstrate that for want of said qualification a candidate may not be suitable for the post, even if he possesses "better" qualification but that "better" qualification has no relevance with the functions attached with the post.

11. In the present case, we find the situation falling in this excepted category. As pointed out above, the Assistant Teacher is meant to impart education to students at primary level. For teaching primary students, subjects studied while doing basic B.Ed. Degree would be relevant and appropriate. For teaching such students, B.Ed. with Specialisation in vocational education would be of no use as those students are not imparted vocational education, which is the thrust in the degree obtained by the Respondents herein. In the instant case, proficiency in the basic subjects taught at primary level is required and thus vocational training would not serve any purpose. Thus, when we find that in the instant case,

essential education qualification is B.Ed. Degree which is prescribed in the relevant rules, having statutory flavour, the action of the Government cannot be faulted with, in rejecting the candidature of the Respondents because of the reason that they do not have the qualification, as mentioned in the advertisement viz. B.Ed. Degree simpliciter.

12. We, therefore, allow these appeals and set aside the judgment of the learned Single Judge, which was affirmed by the Division Bench of the High Court. There shall be no order as to costs.