

(2000) 06 KAR CK 0020
In the Karnataka High Court
Case No : Writ Petition No. 41669 of 1999

The State of Karnataka and Others

APPELLANT

Vs

Vijayalaxmi Somashekarappa Sidmal

RESPONDENT

Date of Decision : 02-06-2000

Acts Referred:

Constitution of India, 1950 — Article 309
University Grants Commission Act, 1956 — Section 22, 3

Citation : (2000) 4 KCCR 2635

Hon'ble Judges : Manjula Chellur, J;G.C. Bharuka, J

Bench : Division Bench

Advocate : B. Manohar, Additional Government Advocate, for the Appellant; K. Subbarao, for the Respondent

Final Decision : Allowed

Judgement

G.C. Bharuka, J.—The present writ petition has been preferred questioning the legality of the order dated 22.2.1999 (Annexure "B") passed by the Karnataka Administrative Tribunal in Application No. 5317 of 1998 by which it has set aside the endorsement dated 11.8.1998 (Annexure A-9) with a direction that the case of the sole Respondent should be considered for appointment to the post of Assistant Mistress Grade-II (Hindi).

2. The Petitioner-Joint Director of Public Instructions had issued a notification dated 3.11.1997 inviting applications from the eligible candidates for filling up the posts of Assistant Masters/Mistress Grade II in High Schools. In response to the said notification, the Respondent also made an application and she was provisionally selected. However, on verification of her educational qualifications, her name was not included in the final selection list. Thereafter, she approached the Administrative Tribunal, which passed impugned order with direction as noticed above.

3. It is not in dispute that the Respondent does not hold any University Degree in Hindi for which she had submitted application for appointment to the post of

Assistant Master/Mistress Grade II for teaching Hindi language. She holds only certificate in Raja Bhasha Praveen in Part-1 granted by the Belgaum Vibhageeya Hindi Seva Shikshana Samithi (Registered), a private institution, at Hubli.

4. Recruitment to the post of Assistant Master/Mistress Grade-II is governed by the Karnataka Education Department Services (Department of Public Instruction) (Recruitment) Rules, 1967 as amended by the Karnataka Education Department Services (Department of Public Instruction) (Recruitment) (First Amendment) Rules, 1991 (in short the "Rules") which have been framed under the proviso to Article 309 of the Constitution of India. These "Rules" have now statutory force under the provisions of the Karnataka Civil Services Act, 1978, the provisions whereof have been brought into force w.e.f. 2.4.1992 vide notification No. SO 463 published in the Karnataka Gazette dated 26.3.19(sic).

5. It will be proper to quote the terms of the eligibility for appointment to the post of Assistant Master/Mistress, which reads thus:

For Direct recruitment and for promotion:

(a) (i) *** ***(ii) *** ***(iii) for language:

(1) Must be holder of a degree in Arts with any of the following major subjects as options, namely:

English, Kannada, Hindi, Urdu, Marathi, Telugu, and Tamil or equivalent examination of four years language Pandit Course in Kannada, Urdu, Hindi or other language from an institution recognised by Government.

(2) In case of candidates who have not studied Kannada at the degree level, he must have studied Kannada as first or second language at SSLC level.

(3) Must be able to teach in the language of the Medium in which he is supposed to teach and in English Medium and

(b) Must be holder of Degree in Education.

(c) *** **

6. From the above, it is quite clear that the aspirants for appointment to the post of Assistant Master/Mistress in Hindi must hold degree in Arts with Hindi as one of the major language apart from holding degree in Education. Admittedly, the Respondent does not hold any Arts degree with Hindi as major language. Therefore, ex facie she is not eligible to be appointed to the post applied for. Nonetheless, the Tribunal has accepted her plea that the State Government under various communications had declared the Raja Bhasha Praveen conducted by the Belgaum Vibhageeya Hindi Seva Shikshana Samithi as equivalent to degree and one of the communications referred to by the Tribunal has been placed at Annexure "A10".

7. We have gone through the various orders of the Government. Under these orders, the Belgaum Vibhageeya Hindi Seva Shikshana Samithi has been

permitted to award certificates of various levels only for the purposes of publicity of Hindi and not to give any equivalence of degree granted by any University.

8. Apart from the above, in our opinion, when the statutory Rules provide "Degree in language" to be one of the minimum educational qualification for being eligible for appointment to the post, then the word "Degree" has to be understood in terms of Section 22 of the University Grants Commission Act, 1956 which reads thus.

22. Right to confer degrees.-(1) The right of conferring or granting degree shall be exercised only by a University established or incorporated by or under a Central Act, a Provincial Act or a State Act or an institution deemed to be a University u/s 3 or an institution specially empowered by an Act or Parliament to confer or grant degrees.

(2) Save as provided in Sub-section (1), no person or authority shall confer, or grant, or hold himself or itself out as entitled to confer or grant, any degree.

(3) For the purposes of this section, "degree" means any such degree as may, with the previous approval of the Central Government, be specified in this behalf by the Commission by notification in the Official Gazette.

9. We are of the considered opinion that the word "degree" as used in the Rules must take its colour from the Central Act and neither the State Government nor the Central Government can enlarge or extend the meaning of "Degree" or declare the certificates or diplomas or any qualification awarded by bodies other than the University as equivalent to "degree" for recruitment to civil posts unless such a power is reserved to the concerned government or any authority under the Government by the statutory Rules. In the present Rules, we do not find that any such power has been conceded to the State Government or any officer of the department of public instruction.

10. In that view of the matter, we find it difficult to sustain the order of the Tribunal which is accordingly set aside. The appeal is accordingly allowed. Before parting, we hope and trust that if any such equivalence is accorded by the State Government to the certificate courses conducted by any of the private institutions then they must immediately take appropriate measures to undo the wrong to bring about an uniformity in the domain of recruitment.