

(1) Vs. State of Haryana and Others

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Court : Punjab and Haryana

Decided On : Mar-20-2014

Appellant : (1)

Respondent : State of Haryana and Others

Judgement :

CIVIL WRIT PETITION NO.19263 of 2012 -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) CIVIL WRIT PETITION NO.19263 of 2012(O&M) DATE OF DECISION: JANUARY20 2014 Vikas SharmaPetitioner VERSUS State of Haryana and othersRespondents

(2) CIVIL WRIT PETITION NO.14488 of 2013 DATE OF DECISION: JANUARY20 2014 Satish KumarPetitioner VERSUS State of Haryana and othersRespondents

(3) CIVIL WRIT PETITION NO.28783 of 2013 DATE OF DECISION: JANUARY20 2014 Akhil Bhartiya Sanskrit & Sanskriti Sanrakshan Sangh TrustPetitioner VERSUS State of Haryana and othersRespondents

(4) CIVIL WRIT PETITION NO.6603 of 2013 DATE OF DECISION: JANUARY20 2014 Malkhan SinghPetitioner VERSUS State of Haryana and othersRespondents

(5) CIVIL WRIT PETITION NO.7692 of 2013 DATE OF DECISION: JANUARY20 2014 Vikash SharmaPetitioner VERSUS State of Haryana and othersRespondents Harish Kumar 2014.03.13 10:37 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.19263 of 2012 -2-

(6) CIVIL WRIT PETITION NO.5633 of 2013 DATE OF DECISION: JANUARY20 2014 Ram AvtarPetitioner VERSUS State of Haryana and othersRespondents

(7) CIVIL WRIT PETITION NO.15874 of 2013 DATE OF DECISION: JANUARY20 2014 Madhu BalaPetitioner VERSUS State of Haryana and othersRespondents

(8) CIVIL WRIT PETITION NO.10345 of 2013 DATE OF DECISION: JANUARY20 2014 Satish KumarPetitioner VERSUS State of Haryana and othersRespondents

(9) CIVIL WRIT PETITION NO.10309 of 2013 DATE OF DECISION: JANUARY20 2014 Govind SharmaPetitioner VERSUS State of Haryana and othersRespondents

(10) CIVIL WRIT PETITION NO.10380 of 2013 DATE OF DECISION: JANUARY20 2014 Akshay KumarPetitioner VERSUS State of Haryana and othersRespondents Harish Kumar 2014.03.13 10:37 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.19263 of 2012 -3-
CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH1 Whether Reporters of local papers may be allowed to see the judgement?.

2.

To be referred to the Reporters or not?.

3.

Whether the judgment should be reported in the Digest?.

Present: Ms.Anu Kapur Chatrath, Advocate Mr.Sansar Kundu, Advocate, Mr.P.S.Rohilla, Advocate, Mr.A.K.Kansal, Advocate, Mr.Surender Deswal, Advocate, Mr.J.S.Chahal, Advocate, Mr.S.K.Bhardwaj, Advocate, Mr.R.P.Verma, Advocate and Mr.Vikas Malik, Advocate for the petitioner(s).Mr.Sunil Nehra, Sr.DAG, Haryana, for the State.

Mr.Mahavir Sandhu, Advocate for respondent No.4 (in CWP No.10345 of 2013)
Mr.Pankaj Bali, Advocate for respondent No.4 (in CWP No.10380 of 2013)
Mr.Parmod Parmar, Advocate and Mr.Amarjit Singh Virk, Advocate for Kurukshetra University.

Mr.Ramesh Hooda, Advocate for respondents No.3 and 4 (In CWP No.19263 of 2012) ***** AUGUSTINE GEORGE MASIH, J.

(ORAL) By this order, I propose to decide CWP Nos.19263 of 2012, 14488, 28783, 6603, 7692, 5633, 15874, 10345, 10309 and 10380 of 2013 where the petitioners are praying for issuance of a writ in the nature of mandamus directing the Haryana School Teachers Selection Board to treat the Acharya degree equal to M.A.(Sanskrit) as per the letter dated 10.05.1975.

Petitioners.in pursuance to the advertisement issued by the Harish Kumar 2014.03.13 10:37 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.19263 of 2012 -4- Haryana School Teachers Selection Board, applied for the post of Post- Graduate Teachers (hereinafter referred to as 'PGT Teachers').Sanskrit.

Some of them apprehend that their candidature would be rejected at the time of interview on the ground that they do not possess M.A.Degree in Sankrit which is the qualification prescribed in the advertisement while others are those whose candidatures have been rejected on this ground.

Petitioners in CWP Nos.19263 of 2012, 14488 and 28783 of 2013 have passed their Acharya degree from Kurukshetra University, Kurukshetra (for short 'KUK') whereas petitioners in CWP Nos.6603, 7692, 5633, 15874, 10345, 10309 and 10380 of 2013 have passed their Acharya degree from Sampurnanand Sanskrit

University, Varansi (for short 'Sampurnanand University').Some of the petitioners have been issued the interview letters but being apprehensive that their candidature would be rejected, have approached this Court while others.after the rejection of candidatures at the time of interview on the ground that they do not possess the prescribed qualification of M.A.in Sanskrit, have approached this Court praying for declaring the Acharya degree possessed by the petitioners equal to M.A.in Sanskrit, thus holding them eligible for consideration for appointment to the post of PGT Sanskrit.

It is the contention of the counsel for the petitioners who have passed their Acharya from KUK that the Shastri degree obtained by the petitioners have been treated to be equivalent to B.A.in Sanskrit and, therefore, the Acharya degree obtained by the petitioners from the KUK has to be treated equal to M.A.in Sanskrit.

In this regard, reliance has been placed upon the judgment passed by this Court in CWP No.6686 of 1996, Harish Kumar 2014.03.13 10:37 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.19263 of 2012 -5- titled as 'Ravinder Kumar versus State of Haryana', decided on 24.01.1996, where Acharya degree passed from the KUK has been held to be equivalent to M.A.in Sanskrit on the basis of the Government of India letter dated 23.01.1964 as also the judgment of the Hon'ble Supreme Court of India in Rampalit Vyakaran Acharya & others versus Punjab University & another, 1976 (3) SCC2 It has, therefore, been prayed that the respondents be directed to consider the petitioners eligible for appointment to the post of PGT Sanskrit.

Counsel for the petitioners in cases where the petitioners have passed their Acharya from the Sampurnanand University assert that the said University has come into existence under the U.P.State Universities Act, 1973 which is also recognized by the UGC (University Grant Commission) as a State University.

Petitioners having obtained Acharya degree from the State University merely because M.A.is not mentioned in the said degree, would not disentitle the petitioners from being treated as eligible for consideration for appointment to the PGT Sanskrit.

They have placed reliance upon the letter dated 21.11.1990 issued by the Ministry of Personnel, PG & Pensions (Department of Personnel & Training, New Delhi, where recognition of the examination conducted by the Sampurnanand University is treated as equivalent to M.A.degree.

According to the petitioners.Maharishi Dayanand University, Rohtak (for brevity 'Md.Rohtak') has prepared a recognition/equivalence list in April, 2011 where the Acharya degree of the said University has been treated to be equivalent to that of M.A.degree.

Acharya degree of Sampurnanand University has been treated to be equivalent to that of Acharya degree of Harish Kumar 2014.03.13 10:37 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.19263 of 2012 -6-Md.Rohtak.

For this, reliance has also been placed on the 'Important Notes' in the said list, according to which the Post-graduate degree of all the statutory universities in India including open and private universities, deemed universities established under the Act of the State/Central Government which are approved by the UGC, have been recognized as equivalent to respective courses of MDU, Rohtak.

Entry No.55 of the said list has been relied upon to contend that Acharya of the Sampurnanand University is equal to that of MDU, Rohtak.

It is, therefore, submitted that Acharya having been treated as a Post-graduate degree would be equal to M.A.in Sanskrit.

Prayer has thus been made for declaring the petitioners eligible for consideration for appointment to the post of PGT Sanskrit.

On the other hand, counsel for the State submits that with the coming into force the Haryana State Education School Cadre (Group-B) Rule 2012 (for short 'the 2012 Rules').educational qualification has been specified for the post of PGT Sanskrit as M.A.Sanskrit with at least 50% marks and B.Ed.

from recognized University.

In the said Rules, nowhere the word 'equivalent' has been used and specific qualification has been prescribed.

Thus, the Acharya degree which is possessed by the petitioners cannot be said to be the required qualification for the post.

It is prerogative of the State to determine which type of qualification should be prescribed for a particular post and cadre and the State is justified in insisting upon the said qualification as has been provided under the statutory rules.

It has further been argued that nowhere in the recognition/equivalence list issued in April, 2011 by the MDU, Rohtak has it been mentioned that Acharya degree of MDU, Rohtak would be equal to M.A.Sanskrit.

What has been Harish Kumar 2014.03.13 10:37 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.19263 of 2012 -7- stated at entry No.55 is that the Acharya degree of Sampurnanand University is equivalent to Acharya degree of MDU, Rohtak which cannot be said to be M.A.in Sanskrit.

An objection has been raised that MDU, Rohtak has not been impleaded as a party respondent in the writ petition and, therefore, the claim of the petitioners cannot be accepted.

In cases where the petitioners have passed their Acharya from KUK, the said university has been impleaded as party respondent.

Counsel for the said respondent submits that initially in the year 1975, the Academic Council resolved that the examination of M.A.(Sanskrit) passed from Kurukshetra University, Kurukshetra, is equal to Acharya of Rashtriya Sanskrit Sansthan, New Delhi, provided that the candidates pass the subject of English of B.A.and it was also decided that Acharya examination from Rashtriya Sanskrit Sansthan, New Delhi is equal to Acharya examination of KUK and not equivalent to M.A.course.

This letter was conveyed on 30.08.1993 which was duly approved by the Academic Council of the University on 08.10.1993.

Even the list of equivalence of examinations/degrees/diplomas as corrected upto 2.08.2011 issued by the KUK, Acharya degree from Rashtriya Sanskrit Sansthan, New Delhi, has been treated to be equal to that of the Acharya of KUK.

He contends that there is no decision declaring Acharya of Kurukshetra University equal to that of M.A.Sanskrit.

Counsel for the State has submitted that the decision of the Government of India on which reliance has been placed by the counsel for the petitioners in the cases where petitioners passed their Acharya from KUK, dated 23.01.1964 as also the judgment of the Hon'ble Supreme Court Harish Kumar 2014.03.13 10:37 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.19263 of 2012 -8- in the case of Ramphalit Vyakaran Acharya's case (supra) would not apply to the case in hand as the new statutory rules have come into force whereas the specific qualification has been prescribed without any equivalence clause.

On this ground also the judgment passed by the Court in Ravinder Kumar's case (supra) would not be applicable.

I have heard the submissions made by the counsel for the parties and with their assistance have gone through the record of the cases.

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 versus State of Haryana & another, 1983 (3) SLR141wherein 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 Harish Kumar 2014.03.13 10:37 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.19263 of 2012 -9- statutory rules nor is there any equivalence clause, the claim of the petitioners cannot be accepted.

That apart, although the petitioners in cases where they have passed their Acharya from Sampurnanand University, which is a State University and recognized by the UGC, but the qualifications possessed by the petitioners are not the same as has been provided under the statutory rules.

Even the recognition/equivalence list of the Md.or the KUK do not, in any of them, recognize or declare it to be equivalent to M.A.Sanskrit except that the Acharya possessed by the petitioners is equal to that of Acharya of the concerned University but that would not entitle the petitioners to be declared as possessing qualifications of M.A.in Sanskrit.

There is nothing on the record to suggest that M.A.in Sanskrit of Md.or KUK is accepted as equal to that of Acharya of these very universities, rather the stand of KUK in the reply filed by them is that M.A.in Sanskrit of KUK is not equal to that of Acharya of the same University.

As regards the claim of the petitioners that this Court in its judgment in Ravinder Kumar's case (supra) has held that Acharya degree is equal to that of M.A.Sanskrit also cannot be accepted in the light of the fact that the statutory rules governing the service i.e.the 2012 Rules have come into existence which is subsequent to the judgment passed by this Court.

The ground taken by the respondents in Ravinder Kumar's case (supra) where the petitioner had successfully competed for the post and even selected was that the Acharya degree possessed by the petitioner was not equivalent to M.A. It is not a position in the present case as it is not reflected therein whether the equivalent qualification was permissible or not. Harish Kumar 2014.03.13 10:37 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.19263 of 2012 -10- not.

Similar was the position in Ramphalit Vyakaran Acharya's case (supra) where again it appears that the equivalent qualification was acceptable and, therefore, the degree of Acharya was treated as equivalent to that of M.A. 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.

In any case, the letter dated 21.11.1990 issued by the Department of the Central Government which is not ipso facto applicable.

There is no decision of the State of Haryana adopting the said letter.

In view of the above, finding no merit in these writ petitions, the same stand dismissed.

January 20, 2014 (AUGUSTINE GEORGE MASIH) Harish JUDGE Harish Kumar
2014.03.13 10:37 I attest to the accuracy and integrity of this document

