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Ashok Kumar Vs. Registrar

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Court : Karnataka

Decided On : Aug-19-1993

Reported in : ILR1993KAR3472; 1993(3)KarLJ390

Judge : Shivashankar Bhat, J.

Appeal No. : W.Ps. Nos. 2859 and 2860 of 1993

Appellant : Ashok Kumar

Respondent : Registrar

Advocate for Def. : S.S. Koti, Adv. for R-1

Advocate for Pet/Ap. : N.K. Patil, Adv.

Disposition : Writ petition allowed

Judgement :
ORDER

Shivashankar Bhat, J.

1. The petitioner, (Ashok Kumar), obtained 97 marks in the first paper in Botany, Zoology and Chemistry and 194 marks in paper-II. Paper-l represented the first year marks and Paper-It represented the first year marks in 10 + 2 course in Andhra Pradesh. 97 marks in the relevant subjects is out of 230, and 194 marks is

out of 360 during the second year. He joined B.A.M.S. course in the Ayurvedic Medical College, Bidar, Now he has been held to be ineligible by the University of Gulbarga on the ground that the minimum marks of 50% should be obtained by taking marks obtained in both the years as in Andhra Pradesh Board, because as per the Regulations of the Andhra Pradesh Board both the marks are to be taken into consideration for eligibility. It is explained by Sri Patil, learned Counsel for the petitioners, that even the Board at Andhra Pradesh was considering the marks of both the years only for the purpose of awarding ranks and not for the purpose of continuing higher studies. The question is whether the petitioner is eligible to join the professional course in Karnataka.

2. The question will have to be answered with reference to eligibility prescribed by the authorities in Karnataka and not by reference to Rules or Regulations in Andhra Pradesh. So long as a candidate satisfies the eligibility prescribed in Karnataka such a candidate's case shall have to be considered by applying the provisions made in Karnataka. In the instant case the petitioners case is governed by the eligibility prescription framed by the Gulbarga University, The relevant provisions read as follows:

'Bachelor of Ayurvedic Medicine and Surgery.

Eligibility. For Admission:

1. (a) Students must have passed the two years P.U.C. Examination of the P.U.C, Education Board, Bangalore, or any other examination recognised as equivalent thereto with English as one of the languages and Physics, Chemistry and Biology as optional subjects with minimum of 50% of marks in the aggregate of the relevant science subjects (Physics, Chemistry and Biology) of the second year P.U.C. Examination only, Preference will be given to candidates knowing Sanskrit.'

As per the above provision the student must have passed two years PUG examination of the PUC Examination Board, Bangalore. Students who have passed other examinations recognised as equivalent, as provided above, are also eligible. However, they should have studied English as one of the language and Physics, Chemistry and Biology as optional subjects. Further a minimum of 50% of

marks in the aggregate of the relevant science subjects of the second year PUC examination is necessary. The equivalence recognised by the Gulbarga University provides for recognising '10 + 2' course of the Andhra Pradesh. In other words the PUC examination held in Karnataka is equated to 10+2 course of Andhra Pradesh.

3. However, the University contends in the present case that for the purpose of computing the percentage of marks in the aggregate of the relevant science subjects, the marks obtained in respect of both the years in Andhra Pradesh shall have to be taken into consideration because that was the Rule in Andhra Pradesh. There is nothing in the Regulation framed by the Gutoarga University incorporating a similar Regulation framed by other Universities or Boards. The Regulation quoted above provides for recognising and accepting any other examination considered as equivalent to that of PUC of Karnataka. PUC in Karnataka is a two year course; however, the examination is conducted only at the end of second year in respect of the second year course and the said marks are only considered. That is also clear from the Regulation which I have quoted already. Nowhere the Regulation or the order providing for recognising the equivalence states that whenever marks cards are issued for two years together then the said marks for two years shall have to be taken note of and only the said marks could be equated to the second year marks of PUC examination of Karnataka. When PUC of Karnataka is considered as equal to 10+2 of Andhra Pradesh the equivalence recognised should permeate not only the entire course but also the different stages of the same course, in the absence of any Regulation to the contra.

4. Mr. S.S. Koti, learned Counsel for the University, relied on a decision of this Court in S. HARINATH REDDY v. BANGALORE UNIVERSITY, : ILR 1990 KAR457 . The relevant facts found at para 5 shows that in the said case the marks obtained by the candidate during 2 year course were considered for the purpose of equating the examination held at Andhra Pradesh (Hyderabad) to the PUC examination of Karnataka However, in the said case there was no consideration of the present question. The Court was not called upon to decide as to whether only the second year marks should be considered as equal to the second year PUC of Karnataka. Therefore the said Decision will not be of any avail to Mr. Koti.

5. The admission of the petitioner was cancelled because he obtained 291 out of 600 which is 48.5% but this 291 out of 600 is the total marks in respect of the two years. I have already noted that the petitioner obtained 194 marks out of 360 in the second year of examination held by the Board of Andhra Pradesh. This is certainly more than 50%.

6. Similar is the situation governing the other petitioner, Ananda Vardhan. He secured 180 out of 360 in the examination referred as second paper that is to say in the second year examination of 10+2 course. This is just 50% and as such he would be eligible to join B.A.M.S, course. The cancellation of the admissions of the petitionersis based on an erroneous approach regarding the computation of the percentage of the marks. Consequently, petitioners are entitled to succeed. The impugned orders are accordingly set aside.

7. Writ Petitions are allowed. Admissions of the petitioners to the BAM.S. course are declared to be valid,

8. The results of the petitioners in the BAM.S. examinations shall be declared and they shall be permitted to continue their education, unless there are other valid reasons to prevent them from continuing their course.

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