

Unreportable
THE HIGH COURT OF DELHI AT NEW DELHI

+ WP (C) No. 4486 of 2002

Reserved on : October 10, 2007
Pronounced on : February 01, 2008

Raj Kumar

.....Petitioner

!

through :

Ms. S. Janani with Mr. Deepak
Goel, Advocates

VERSUS

\$ Government of NCT of Delhi & Ors.

.....Respondents

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through :

Ms. Avnish Ahlawat with
Ms. Latika Chaudury, Advocates

CORAM :-

*** THE HON'BLE MR.JUSTICE A.K.SIKRI**

THE HON'BLE MR. JUSTICE VIPIN SANGHI

1. Whether Reporters of Local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

A.K. SIKRI, J.

1. The petitioner applied for the post of Post Graduate Teacher (History) in the Directorate of Education, Govt. of NCT of Delhi in pursuance of Advertisement No. 002/99 of Delhi Subordinate Services Selection Board (for short, 'DSSSB') published in the year 1999. The candidates who fulfil the requisite educational qualifications from the recognized institution as per the advertisement/brochures by the DSSSB were eligible for the post of PGT (History). The petitioner participated in a test conducted by DSSSB and was declared successful. He was issued offer of appointment dated 27.12.1999 by the Deputy Director of Education (DDE) directing him to join his office within 10 days

along with original certificates and attested copies thereof for verification. He reported to the Office of the DDE on 28.12.1999. He was asked to report for posting orders after four days. When he visited the office of the DDE after four days, he was told that his certificate of 12th standard issued by the Board of Adult Education & Training (BAET) is not valid as the institute was not a recognized one. He was, therefore, not allowed to join the duties. In these circumstances, he filed OA No. 471/2000 before the Central Administrative Tribunal, Principal Bench, New Delhi. Within few days thereafter, the petitioner received communication dated 23.2.2000 sent on 24.3.2000 and received by him on 28.3.2000 mentioning that Board of Adult Education and Training (Institute of Adult Education) was not listed among the accredited institutes in the country and, therefore, his candidature was cancelled. The Tribunal, thereafter, considered the OA of the petitioner and passed orders dated 19.12.2000 *inter alia* stating that the petitioner should have been given opportunity of being heard.

2. After this judgment, the respondents issued Order No. 56 dated 16.1.2001 nominating the petitioner to District West-B. Thereafter, vide memorandum dated 23.1.2001 the petitioner was offered the post of PGT. The petitioner was posted to the Govt. Boys Senior Secondary School, Hastal, New Delhi. Within four months thereafter, vide show-cause notice dated 31.5.2001, the petitioner was called upon to show-cause as to why his services be not terminated as the basic qualification of 10+2, on the basis of which he was provisionally selected, was not recognized by the concerned authority. This show-cause

notice was challenged by the petitioner by filing another OA before the Tribunal, which was however dismissed by the Tribunal vide orders dated 12.7.2002.

3. The petitioner has passed his matriculation exam from Haryana Vidyalaya Shiksha Board in March 1984. He passed Senior Secondary School (Uttar Madhyama) examination from BAET, New Delhi in the year 1988. On the basis of this qualification, he got admission in B.A. and did his graduation in April 1994 from Maharshi Dayanand Vishwa Vidyalaya. From the same university he did his B.Ed. in July 1997 and thereafter ehe even passed MA (History) in May 1998. On the basis of these qualifications, he had applied for the post of PGT. However, the bone of contention today is that the Senior Secondary School qualification obtained by the petitioner from BAET, New Delhi is not recognized as the said institute is not listed among the accredited Boards and Institutions in the country. The learned Tribunal, while dismissing the application of the petitioner herein, noted the argument of the respondents that Directorate of Education by a public notice issued on 29.1.1999 in Times of India and Indian Express had informed that four institutions, including BAET, are not listed among the accredited board/institutions in the country and the certificates awarded by these institutions are not recognized by the competent authority. Though the petitioner was appointed provisionally on the basis of the Tribunal's orders dated 19.12.2000 passed in the first OA filed by the petitioner, thereafter Ministry of Human Resource Development vide its letter dated 24.1.2000 had informed the Directorate of Education that BAET is not recognized by CBSE

nor the institution is working under the instructions of the Ministry and it was clarified that OM dated 12.12.1988 purported to have been issued by Shri L. Parmar, former AEO, Ministry of Human Resource Development was never issued and that was a bogus letter. Going by these considerations, the Tribunal held as under :-

“8. It is well settled legal position that only the competent authority can grant recognition to educational institutions to conduct classes, examination and award certificate/degree to the students. Recognition cannot be conferred by the order of any court of law. In fact MHRD has categorically stated that the letter dated 12.12.88 purported to have been issued by Shri L. Parmar, former Assistant Education Officer in that department had never been issued recognising an examination conducted by BAET. Thus, there is no question of grant of recognition to BAET at any point of time. Therefore, applicant cannot claim the benefit of having passed the exam at the time when the institute was not recognised and any certificate issued by the institute cannot be treated as a valid certificate for the purpose of getting employment under the Government. Hence applicant's case has been rightly rejected by the respondents. Therefore the action of the respondents in this regard issuing the impugned show cause notice dated 31.5.2001 cannot be found fault.”

4. Ms. Avnish Ahlawant, learned counsel appearing for the respondents, laid much stress on the aforesaid aspects, including the fact that benefit was earlier given to the petitioner in view of the OM dated 12.12.88 and as it came to the notice that it was a bogus and forged document and, thus, BAET was never recognised, the judgment of the Tribunal was perfectly valid. She also referred to the Supreme Court judgment in the case of ***Dr. Ravinder Nath v. State of H.P. & Ors.***, 1993 Supp. (2) SCC 639, wherein the Apex Court held that the diploma/degree of Vaidya Visharad or Ayurved Ratna obtained from Hindi Sahitya Sammelan, Allahabad in 1974 is not recognizant qualification because the institute was recognised for the period starting from 1931 to 1967 only and mere

mention of the institution in the Directory of Institution for Higher Education issued by the Government of India would not confer on the authority to give degree/diplomas overriding the provision of the Central Act of 1970, the State of 1968 and the State Service Rules of 1974 and the notification of the State Government issued in the year 1978 which laid down on the professional medical qualification.

5. She further submitted that in the case of ***Union of India & Ors. v. Shah Goverdhan L. Kabra Teacher College***, JT (2002) 8 SC 269, it was held that the education is the back bone of every democracy and deterioration of the standards of teaching in the B.Ed. course would ultimately produce sub-standard productive teachers. Section 17(4) of National Council for Teacher Education Act, 1993 states that where an institution providing teacher education is not recognized or the recognition granted is withdrawn under the Act, the qualification obtained by any person after undergoing course or training in such institution shall not be a valid qualification for the purpose of the employment as teacher.
6. She referred to another judgment of the Apex Court in ***State of Rajasthan & Ors. v. Lata Arun***, (2002) 6 SCC 252 wherein it was held by the Supreme Court that it is not for the courts to determine whether a particular educational qualification possessed by a candidate should or should not be recognized as equivalent to the prescribed qualification. That is to say that such matters are not justifiable. In an appropriate case, the court can examine whether the policy decision or the administrative order dealing with the matter is based on a fair,

rational and reasonable ground; whether the decision has been taken on consideration of relevant aspects of the matter; whether exercise of the power obtained with mala fide intention; whether the decision serves the purpose of giving proper training to the candidates admitted or it is based on irrelevant and irrational consideration or intended to benefit an individual or a group of candidates.

7. Ms. Ahlawat further argued that where a candidate lacks requisite qualification, such appointment cannot be continued and such a person does not hold any right over the post, as held by the Supreme Court in ***Mohd. Sartaj & Ors. v. State of U.P. & Ors.***, (2006) 2 SCC 315.
8. Her last leg of submission was based on another judgment of the Supreme Court in ***State of U.P. v. Neeraj Awasthi & Ors.***, (2006) 1 SCC 667. In ***Neeraj Awasthi*** (supra), the Supreme Court held that an attempt to induct an employee without following the procedure would be a back door appointment and such appointments have been deprecated by it times without numbers. Similarly in ***L. Muthukumar & Anr. v. State of Tamil Nadu & Ors.***, (2000) 7 SCC 618, it was held that in most of civilized and advanced countries, the job of teachers in a primary school is considered an important and crucial one because moulding of young minds begins in primary schools. Allowing ill-trained teachers coming from de-recognized or unrecognized institutes or licensing them to teach children of an impressionable age, contrary to the norms prescribed, will be detrimental to the interest of the nation itself in the sense that in the process of building a great nation, teachers and

educational institutions also play a vital role. In cases like these, interest of individual cannot be placed above or preferred to the larger public interest. Thus, considering all the relevant aspects, the prayer of the petitioner therein was rejected.

9. Learned counsel for the petitioner, on the other hand, relied upon the judgment of this Court in ***Dayal Singh Rawat v. UCO Bank & Ors.*** (CWP No. 528/1995) decided on 10.1.1997 to contend that this Court had already taken the view that the aforesaid qualification from BAET was recognized. It was also submitted that when the first OA of the petitioner was allowed vide orders dated 19.12.2000, pursuant to which the petitioner was given the appointment, such a show-cause notice dated 31.5.2001 was not proper and the respondents were estopped from terminating his services on the same ground on which they had earlier refused to issue appointment orders to the petitioners, but ultimately yielded after the Tribunal's judgment dated 19.12.2000. It was also submitted that the basic qualification for appointment to the post is Post Graduation in his trade with the B.Ed. degree. Admittedly, both these qualifications are from recognized institutes. The certificate of class 12th was deemed acceptable by the University of MDU for grant of B.A. & B.Ed. degree and also Kurukshetra University at Kurukshetra accepted 12th class certificate for grant of M.A. degree to the petitioner. The respondents, therefore, cannot at this stage dispute the validity of the class 12th certificate.

Learned counsel also pointed that several universities and States had recognized this certificate granted by BAET and there were number of people in the employment of the Government,

including in the Department of Education, who had obtained their 10th and 12th class certificates from that very Board. The counsel, therefore, made fervent plea to allow the petitioner to continue in service, more so when no such vide publicity was given to the effect that BAET was not recognized by them and, therefore, the petitioner should not be made to suffer because of the laches on the part of the department.

10. We have considered the submissions of both the parties.

In the first OA filed by the petitioner, the Tribunal had placed reliance upon the judgment of this Court in ***Dayal Singh Rawat*** (supra). That was also a case where Shri Rawat had passed out from the same Board of Adult Education and Training in the year 1984, at which point of time the institute was recognised by a competent authority and its certificate was, therefore, valid and he could not be denied the promotion or benefits flowing therefrom. This Court had also observed that in that judgment that at least until 12.12.1988 the institute was a recognized institution and even if it was derecognized thereafter, Shri Rawat could not be denied the benefit. It is manifest from the reading of the said judgment that the opinion of the court that BAET was recognized till 12.12.1988 was based on the certificate dated 12.12.1988 as per which the Board was derecognized. The Court, thus, inferred that since it was derecognized only vide letter dated 12.12.1988 it was at least recognized till that date and, thus, benefit was given to the petitioner in the said petition who had passed out the exam from the said Board in the year 1984.

11. It is not in dispute that pursuant to this judgment the petitioner was given appointment *albeit* on provisional basis. No doubt, show-cause notice dated 31.5.2001 was issued to the petitioner in view of Ministry of Human Resource Development's clarification that letter dated 12.12.1988 was never issued by it whereby the said Board was allegedly derecognized and according to the MHRD this Board was never recognized in the first instance.
12. Since it is now clarified by the MHRD itself that it never issued any such letter dated 12.12.1988, the very premise on the basis of which this Court had passed the judgment in ***Dayal Singh Rawat*** (supra) vanishes. Apart from this, there is no other document to support that the Board was ever recognized by the MHRD. In the absence of any such recognition to this Board, obtaining such a qualification from this Board would be no avail to the petitioner insofar as the question of his appointment in the Directorate of Education, Govt. of NCT of Delhi is concerned as the Central Government has not recognized this Board. May be, as pointed out by learned counsel for the petitioner, many other universities or State Governments have recognized the certificate granted by BAET. However, for that purpose, while seeking employment with those authorities who have recognized, it may not be a handicap for the petitioner, but this would not be of any aid to the petitioner insofar as his appointment is concerned.
13. In this factual backdrop, we are of the opinion that the conclusion drawn by the Tribunal in the impugned judgment is

valid and does not call for any interference. Learned counsel for the respondent is right in her submission that qualification obtained by any person from a institute which is not recognized would not be treated as valid qualification for the purpose of employment. This submission is based on the judgments of the Apex Court, note whereof is already taken above.

14. We, therefore, find no merit in this writ petition and dismiss the same. There shall, however, be no order as to costs.

(A.K. SIKRI)
JUDGE

(VIPIN SANGHI)
JUDGE

February 01, 2008
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