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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Judgment Dated: 27th July, 2016**

+ W.P.(C) 454/2010
THE CHAIRMAN(S.S.C.) & ANOTHER Petitioners

Through : Mr. S.M. Arif with Mr. M.R. Junaidi
and Ms. Shabnam Perween, Advocates

versus

AJAY MEHRA Respondent

Through : Mr. Alok Sinha with Mr. Mayank,
Advocates

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S. MEHTA

G.S.SISTANI, J (ORAL)

1. Challenge in this writ petition is to the order dated 04.02.2009 passed by the Central Administrative Tribunal (hereinafter referred to for short as 'the Tribunal') by which the OA filed by the respondent herein has been allowed.
2. We may notice that initially by an order dated 10.08.2007, the OA filed by the respondent herein was dismissed. Subsequently, a review application was filed which was allowed by an order dated 14.08.2008 and the OA was restored to its original number and file and decided on 04.02.2009.
3. The necessary facts to be noticed for disposal of this writ petition are that the petitioner no.1 had issued an advertisement in the Employment News for the Combined Graduate Level(Preliminary) Examination, 2004 on 18-24/10/2003. The closing date for applying for the said examination was 14.11.2003. Pursuant to the advertisement, a Preliminary Examination was held on 08.02.2004. The respondent being successful appeared in the interview on 27.04.2005. A memorandum

was issued to the respondent on 26.10.2005 informing him about the discrepancies with regard to absence of a degree from a recognized University as on 01.08.2004. According to the petitioner, the respondent did not have the requisite qualification, i.e., a Graduation Degree on or before 01.08.2004. Consequently, his candidature was cancelled. Thereafter, as noticed hereinabove, in December, 2006 an OA.2692/2006 was filed by the respondent which was dismissed on 10.08.2007. A review application was filed which was allowed on 14.08.2008 and the OA was restored to its original number. The OA was allowed on 04.02.2009. A writ petition filed by the petitioner in the year 2009 was withdrawn with liberty to file a review petition before the Tribunal which was also dismissed on 10.09.2009. Feeling aggrieved by the orders dated 04.02.2009 and 10.09.2009 passed by the Tribunal, the petitioner has approached this Court.

4. The case of the petitioner in short is that as per the advertisement under the clause Educational Qualifications, it was essential for a candidate to possess a Degree from a recognized University or equivalent to be eligible for the Combined Graduate Level (Preliminary) Examination, 2004 conducted by the Staff Selection Commission. In this case, the respondent had made an application on the basis of a Post Graduation Degree obtained by him from Annamalai University. While it is the case of the petitioner that the respondent had not completed the first degree course of three years, thus a Post Graduation Degree without completion of a three years Graduation Course is not recognized under the UGC guidelines, it is the case of the respondent that the Post Graduation Degree of Annamalai University is an Integrated Course of BA plus M.A., thus the respondent meets the eligibility requirement. Counsel for the respondent submits that an M.A. course of Annamalai University is

recognized by the UGC and thus, the respondent cannot be deprived for appointment for the post applied for by him.

5. Mr. S.M. Arif, learned counsel for the petitioner points out that the respondent has completed the Integrated Course of BA and MA in two years. However, as per the UGC(Minimum Standards of Instruction for the Grant of the Master's Degree through Formal Education) Regulations, 2003, under clause 2.2 in case of integrated Master's Degree Programmes which should be of five years or more, no student would be eligible for admission unless he has successfully passed the examination conducted by a Board/University at the Plus Two level of schooling(either through formal schooling for 12 years or through open school system) recognized by the Central/State Government for this purpose or its equivalent.
6. Before the rival submissions of the counsel for the parties can be considered, we deem it appropriate to extract the relevant guidelines of University Grants Commission Regulations, 1985, which read as under:

“8.3 UGC Regulations, 1985 regarding the Minimum Standards of instructions for the Grant of the First Degree through Non-formal/Distance Education

University Grants Commission
New Delhi-110002

25th November, 1985

No.F-1-117/83(CP)- In exercise of the powers conferred by Clause(f) of sub-section (1) of Section 26 of the University Grants Commission Act, 1956 (No.3 of 1956), the University Grants Commission makes the following regulations, namely:-

1. *Short title, application and commencement:-*
.....
.....
2. *Admission/Students:*

(1) No student shall be eligible for admission to the Ist Degree Course through non-formal/distance education unless he has successfully completed 12 years schooling through an examination conducted by a Board/University. In case there is no previous academic record, he shall be eligible for admission if he has passed an entrance test conducted by the University provided that he is not below the age of 18 years on July 1 of the year of admission.

(2) No student shall be eligible for the award of the first degree unless he has successfully completed a three year course; this degree may be called the B.A./B.Sc./B.Com.(General Honours/Special) degree as the case may be.

Provided that no student shall be eligible to seek admission to the Master's Course in these faculties, who has not successfully pursued the first Degree Course of three years duration.

Provided further that, as a transitory measure where the universities are unable to change over to a three year degree course, they may award a B.A./B.Sc./B.Com.(Pass) degree on successful completion of two year course that no student of this stream shall be eligible for admission to the Master's course unless he has undergone a further one year bridge course and passed the same. The three year degree course after 10+2 stage should in no case be termed as B.A./B.Sc./B.Com.(Pass) degree.

.....”

(Emphasis added)

7. Reading of the UGC Regulations, 1985 makes it abundantly clear that no student shall be eligible to seek admission to the Master's course who has not successfully completed the first degree course of three years duration. In addition, the petitioner has also drawn our attention to a letter dated 15.02.2006 received from the Under Secretary to the Government of India, Ministry of Human Resource Development, Department of Secondary & Higher Education and a letter dated 04.04.2006 received from the University Grants Commission, Bahadurshah Zafar Marg, New Delhi-110002, which read as under:

“F.No.5-38/2005-Desk(U)(A)

Government of India

Ministry of Human Resource Development

Department of Secondary & Higher Education

Shastri Bhavan, New Delhi

Dated 15th February, 2006

To

Shri U.K.Tiwari

Under Secretary (P&P-I)

Staff Selection Commission

Department of Personal & Training

Ministry of Personnel, Public Grievances & Pensions

Block No.12, Kendriya Karyalay Parisar

Lodhi Road, New Delhi-110003.

Subject: Clarification regarding educational qualification

Sir,

I am directed to refer to your letter No.3/8/2004-P&P-1(Pt.) dated 19.12.2005 on the subject mentioned above seeking clarification regarding educational qualification of Masters of Art Degree in English obtained by some Shri Ajay Mehera from the Annamalia University through distance mode. The matter has been examined in this Department in consultation with Distance Educational Council (DEC).

2. Government of India Gazette Notification No.44 dated 1.3.1995 states that all the qualifications awarded through distance education mode by the Universities established by an Act of Parliament or State Legislature, Institutions deemed to be Universities under Section 3 of the UGC Act 1956 and Institutions of National Importance declared under an Act of Parliament stand automatically recognized for the purpose of employment to posts and services under Central Govt. provided it has been approved by Distance Education Council, Indira Gandhi National Open University. Distance Education Council has, however, informed that the programmes offered by Annamalia University through distance education mode are yet to be recognized by them.

Yours faithfully,

Sd/-

(BALJIT SINGH)

UNDER SECRETARY TO THE GOVT. OF INDIA”

“University Grants Commission
Bahadurshah Zafar Marg
New Delhi

No.F.14-2/2004(CPP-II)Pt-II

March, 2006

4 APR 2006

Sh.S.C.Sharma
Section Officer
Ministry of Human Resource Development
Deptt of Secondary & Higher Education
Shastri Bhawan
New Delhi-110001

Sub: Educational qualification of Sh.Ajay Mehera

Sir,

With reference to your No.F.12-23/06-U.2 dated 25th January, 2006 on the above subject, I am directed to inform you that as per UGC regulations on Minimum Standards of instructions for the Grant of First Degree through Non-formal/Distance Education “No student shall be eligible to seek admission to the Master’s course who has not successfully pursued the first degree course of three years duration.”

However, Distance Education Council, IGNOU also may be consulted in this regard.

Yours faithfully

Sd/-
(Mrs.Rohini Dharmapalan)
Under Secretary

8. During the course of hearing, learned counsel for the respondent has not denied that the respondent is not a graduate. It is admitted that now the respondent is appearing for his graduation. According to the advertisement in column of Educational Qualification, an applicant must possess a B.A. degree. As per the respondent, since the respondent has a M.A. degree from Annamalai University it is presumed that he has

completed his B.A. plus his M.A. degree is an integrated degree of B.A. and M.A. We are unable to accept the submission of learned counsel for the respondent for two reasons; firstly having regard to the University Grants Commission guidelines and the clarification issued by letters dated 15.02.2006 and 04.04.2006, it leaves no room for doubt that the respondent could not have been considered for the Staff Selection Commission, Combined Graduate Level (Preliminary) Examination, 2004 in the absence of a Degree of Graduation and secondly, as the composite degree of Annamalai University is not recognized for the post in view of the University Grants Commission guidelines. Our view is fortified by a decision of the Supreme Court of India in the case of *Annamalai University v. Secretary to Government, Information and Tourism Department and Others*, (2009) 4 SCC 590, wherein the question arose before the Supreme Court in respect of the validity of a M.A. degree of a candidate in the absence of a bachelors degree. The Supreme Court categorically held that regulation 2 of UGC Regulations, 1985, extracted by us in para 6 aforegoing, is imperative in character and non-compliance entails its consequences.

9. In view of the discussion above, the writ petition is allowed. The order passed by the Tribunal is set aside.
10. The writ petition stands disposed of.

G.S.SISTANI, J

I.S. MEHTA, J

JULY 27, 2016

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