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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 26th April, 2022

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W.P.(C) 1593/2020

SHWETA THUSOO

..... Petitioner

Through: Mr Sahil Monga, Advocate

versus

GOVERNMENT OF NCT OF DELHI AND ORS.

..... Respondents

Through: Ms Avnish Ahlawat, Standing Counsel, GNCTD (Services) with Ms Palak Rohmetra, Advocate for R-1.

Mr Naresh Kaushik with Mr Anand Singh, Advocates for R-2/UPSC.

Mr Apoorv Kurup with Ms Nidhi Mittal, Mr Ojaswa Pathak and Ms Aparna Arun, Advocates for R-3.

Mr Anil Soni, Standing Counsel with Mr Devesh Dubey, Advocate for AICTE.

Mr Shekhar G. Devasa with Mr Manish Tiwari, Advocates for R-5.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

NAJMI WAZIRI, J. (ORAL)

The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. The petitioner impugns the order dated 16.01.2020 passed by the learned Central Administrative Tribunal (CAT), Principal Bench, New Delhi in the petitioner's O.A. No.143/2020 dismissing the petition for the following reason:-

“10. According to the guidelines framed by the UGC, any professional or technical course can be run by Institution only when the concerned agencies have approved it. For example, a course in B.E. or B.Tech. can be run only when it is approved by the AICTE. That the MLT is either technical or professional in nature, is very much evident. This is clear from the fact that the alternative qualification for the post prescribed is MBBS. Admittedly, the applicant studied the course through distance mode and not through regular mode.

10. Various High Courts took exception to the imparting of education in technical and professional courses through distance mode. In the recent past, the Hon'ble Supreme Court held that the degrees obtained in professional courses, such as Engineering, through distance mode, cannot be treated as valid for the purpose of employment. Same situation obtains in this case also.”

2. The petitioner had applied for the post of Lecturer (Medical Laboratory Technology) on the basis of his MLT degree, which he earned from Karnataka State Open University - respondent no.5, approval for the said academic course was granted by the erstwhile Distance Education Council, a body constituted under the Indira Gandhi National Open University (IGNOU) Act.

3. Evidently, the impugned order has come to the aforesaid conclusion without the parties being heard *apropos* the validity of the

said degree in terms of UGC Guidelines which, evidently, is the ground for non-acceptance of the said degree. The UGC has communicated its view with reference to UGC's Regulations which incidentally came into operation after 2013 i.e. from 2017. The petitioner had earned the degree after undergoing the course from 2011 to 2013, a duration, when no such UGC Regulations were existent. Therefore, *ex facie*, UGC'S Regulations, as may be, cannot be made applicable retrospectively *apropos* the petitioner's course and resultant degree.

4. The petitioner contends that insofar as he has a valid degree under the statute, the same cannot be the subject matter of non-determination under subsequent Regulations. Therefore, he must be granted the post/employment he seeks, especially, since he has scored the highest marks in the examination conducted by the UGC.

5. It is also a matter of record that the petitioner has served as a Part-Time Lecturer in a College run by the GNCTD. The Government has recognized his qualification and competence to impart education in the said subject/course.

6. The learned counsel for the petitioner submits that the parties were not heard on the issue whether the degree granted through the statutory body would not be valid or otherwise can be overruled by subsequent Regulations.

7. The court is of the view that insofar as the conclusion drawn in the aforesaid paragraphs of the impugned order is without having heard the parties, on the special facts related to the MLT degree having been obtained even before the UGC's Regulations were born,

the matter requires fresh consideration. In the circumstances, the impugned order is set aside. The matter is remanded to the learned CAT for consideration of the matter afresh on the aforesaid issue. It will be open to the parties to address all aspects of the issue.

8. In the interregnum, one position of Lecturer (Medical Laboratory Technology) shall be kept vacant. The interim order dated 11.02.2020 shall continue till the disposal of the remanded petition by the learned Tribunal.

9. The learned counsel for the parties say that they would request the learned CAT to endeavour to dispose-off the petition within five months from the date of receipt of a copy of this order.

10. The writ petition is disposed-off in the above terms.

NAJMI WAZIRI, J

SWARANA KANTA SHARMA, J

APRIL 26, 2022

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