

Suryakant Vs State Of Haryana And Others

Civil Writ Petition No. 28901 Of 2019

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Dec. 22, 2020

Citation: (2020) 12 P&H CK 0482

Hon'ble Judges: Anil Kshetarpal, J

Bench: Single Bench

Advocate: Pardeep Kumar Sehrawat, Vikram singh Narwal, Amit Kumar Jain, G.S.Gopera, Shalender Mohan, Jasbir Mor, Rajinder Singh, Ravi Verma, Parth Goyal, Rohit Arya, Kanwal Goyal, S.P.Arora, Himanshu Arora, Sameer Sachdeva, Indesh Goel, Ajit Kumar Sharma

Final Decision: Disposed Of

Judgement

Anil Kshetarpal, J

This judgment shall disposed of the Civil writ petition Nos.28901, 27010, 29103, 29114, 27796, 28742, 32666, 33133, 27839, 28458, 31793 of 2019, 7906

and 10975 of 2020. Counsel for the parties are ad-idem that these writ petitions can conveniently be disposed of by a common judgment as the issue

which require adjudication is the same.

The issue which requires adjudication is as to whether the masters degree in M.Ed is to be treated as a Post Graduation Decree for the purpose of

appointment to the post of Assistant Block Resource Coordinators (hereinafter referred to as 'ABRC'), who are sought to be appointed in the cluster

of 10-15 schools to mentor, monitor and to give academic support to the officials/teachers posted in the schools. On 15.06.2019, a recruitment notice

was issued by a Society-Haryana School Shiksha Priyojna Parishad. The applications were invited for appointment to the post of ABRC on purely

contractual basis initially for a period of one year and extendable on the basis of performance. As per recruitment notice, the essential qualification

were as under:-

“Essential qualification (EQ) for the post of ABRC:-

(i) Post Graduate in 1st class with B.Ed/M.Phil/UGC Net; and

(ii) Matric with Hindi/Sanskrit or 10+2/B.A./M.A with Hindi as one of the subject and Preference will be given to candidates having knowledge of computer in Microsoft office including Excel, Access and Power point and experience in Government Department.

The petitioners participated in the recruitment process by appearing in the written examination held by the Haryana School Education Board.

However, they were not selected, resulting in filing of these writ petitions. At this stage, it is significant to note that the petitioners have not impleaded

any expert body like University Grant Commission or NCTE. This court has been called upon to declare that M.Ed. qualification is equivalent to Post

Graduate in 1st class. Strong reliance has been placed on a recent judgment passed by the Hon'ble Supreme Court in Anand Yadav and others vs,

State of Uttar Pradesh and others, (Civil Appeal No.2850 of 2020, decided on 12.10.2020).

It is not in dispute that none of the petitioners has passed his Post Graduation Degree i.e. M.A. in first class which is the essential qualification.

In Civil Writ Petition No.29114 of 2019, the petitioner has passed M.A in Psychology with 65% marks but she did not apply on the basis of same

qualification. Similarly, in Civil Writ Petition No.27839 of 2019, the petitioner did not apply on the basis of M.A qualification. He has also not disclosed

his marks. In Civil Writ Petition No.7906 of 2020, the petitioner did not appear before the Documents Verification Committee on 13.09.2019 and has

not passed his M.A. in 1st class.

Now the question which arises is “whether the judgment passed by the Hon'ble Supreme Court in Ananat Yadav's case(supra), unequivocally lays

down that M.Ed is a Post Graduation Degree and is to be equated with M.A across board. On careful reading and re-reading of the judgment passed

by the Supreme Court, it becomes clear that the court was faced with a situation where the employer after getting opinion of the Experts had issued

corrigendum and recognised M.Ed degree to be equivalent to the degree of MA(Education) for the purpose of appointment to the posts of Assistant

Professor. The same was challenged before the High Court. The High Court while relying upon judgment in Dr. Prit Singh vs. S.K.Mangal and others,

1993 Supp (1) SCC 714, reversed the decision of the employer. It may be noted here that in the case of Anand Yadav's case (supra), the Hon'ble

Supreme Court at more than one places has observed that the matter of equivalence should be left to the expert bodies and the courts are not

expected to sit over their decision as an appellate authority. The court also noticed judgment in Zahoor Ahmad Rather and others vs Sheikh Imtiyaz

Ahmad and others, (2019) 2 SCC 414, wherein it was held that it is no part of the role or function of judicial review to expand upon the ambit of

prescribed qualifications. Equivalence of a qualification is not a matter which cannot be determined in exercise of judicial review. Whether a particular

qualification should be or should not be regarded as equivalent, is a matter for the recruitment authority to determine. Further, it is significant to note

that the Supreme Court has noticed that M.Ed is a training qualification being a professional programme and it is a practitioner's degree whereas

MA is a regular programme in academic. No doubt, in paragraph 4 of the judgment, the court noticed the aspects which arise for adjudication in the

case, however, thereafter refrained from giving any general declaration.

The court further noticed that the M.Ed can be treated as equivalent to M.A(Education) for the post of Assistant Professor. At this stage, it would be

important to notice the observations made in paragraphs 31, 32 and 33 which are extracted as under:-

31. We may also notice another important aspect, i.e., the employer ultimately being the best judge of who should be appointed. The choice

was of respondent No. 2. who sought the assistance of an expert committee in view of the representation of some of the appellants. The

eminence of the expert committee is apparent from its composition. That committee, after examination, opined in favour of the stand taken by

the appellants, and respondent No. 2 as employer decided to concur with the same and accepted the committee's opinion. It is really not

for the appellants or the contesting respondent to contend how and in what manner a degree should be obtained, which would make them

eligible for appointment by respondent No. 2.

32. We hasten to add that it is not our view that an employer like respondent No. 2 can do as they please - they are guided and bound by the

terms of the UGC Act and the regulations thereunder, but then here, there is no doubt about the M.Ed. degree being a post graduate

degree, in view of not only what the UGC stated before us, but having promulgated the relevant Regulations as far back as 2010 as

amended from time to time. The issue of equivalence has been rightly considered by the NCTE and while recognising some distinct aspects of

two the degrees, it has clearly stated that for the job of Assistant Professors (Education), both are eligible.

33. We may notice that it is not as if a person with an M.Ed. degree is eligible for all the posts which were advertised for Science, Arts and

others. Their eligibility has been found only for the post of Assistant Professor (Education), which is directly relatable to the subject to be

taught. We do not think the fact that both M.Ed. and M.A. (Education) degree-holders have to take a common test for the purposes of NET

is conclusive, but it is one of the factors to be considered, and once the expert body being the NCTE, inter alia, has taken that aspect into

consideration apart from other factors to opine equivalence for the purpose of appointment to the post of Assistant Professor in Education,

it would not be appropriate to take a contra view.

The crux of the entire judgment is that it is for the employer to decide and the scope of judicial review in such cases is limited. The court no doubt held

that the employer shall be guided and bound by the terms of the UGC Act and the regulation framed thereunder.

Keeping in view the aforesaid authoritative pronouncements by the Hon'ble supreme court, this court now proceeds to adjudicate these writ

petitions.

In the present case, the post in question is ABRC. The appointments are to be made on contractual basis. The post is not equivalent to a teacher. The

ABRC is sought to be appointed in the cluster of 10-15 schools to mentor, monitor and give academic support to the students studying therein. The

employer in its wisdom has considered it appropriate not to take into consideration M.Ed. Qualification as post Graduate in first class as required as

per advertisement. In reply to the writ petitions, this matter has also been strongly contested.

After having heard learned counsel for the parties and perused the paper books, this court is of the view that the petitioners have failed to place

sufficient material on the record enabling the court to return conclusive findings.

As noticed above, most of the counsels have relied upon the judgment in Anand Yadav's case (supra). Some counsels have referred to the opinion

given by the Maharishi Dayanand University and University Grant Commission. No doubt, the University Grant Commission has recognised M.Ed to

be a Master's course. However, on careful reading of the judgment in Anand Yada's case (supra), it is apparent that NATIONAL COUNCIL FOR

TEACHER EDUCATION (HEREINAFTER REFERRED TO AS THE 'NCTE') gave different projections about equivalence of both the

qualifications before the Supreme Court.

Keeping in view the aforesaid facts, it is considered appropriate to direct the respondent-Society to re-consider all these matters after calling a report

from the Experts in the field as well as from University Grant Commission and NCTE. Ultimate decision would obviously rest with the Society.

However, it is hoped that the officials of the Society would take a dispassionate view after considering the material.

Let a decision in this regard be taken within a period of 3 months. The petitioners shall be at liberty to submit fresh material, if any, available.

With these observations, all the writ petitions are disposed of.