

(2015) 09 SC CK 0106

Supreme Court of India

Case No: Civil Appeal No. 7468 of 2008

Ramesh

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision: Sept. 8, 2015

Citation: (2015) 9 SCALE 639 : (2015) 4 SCT 491

Hon'ble Judges: Dipak Misra, J; Prafulla C. Pant, J

Bench: Division Bench

Advocate: Sanjay Kharde, Chandan Ramamurthi and Nishant Ramakantrao Katneshwarkar, for the Appellant; Vivek C. Solshe, C.G. Solshe, Mahaling Pandarge, Nishant Ramakantrao Katneshwarkar, Sudhanshu S. Chaudhari, T. Mahipal and Gopal Singh, Advocates for the Responden

Final Decision: Dismissed

Judgement

Prafulla C. Pant, J

This appeal is directed against order dated 20.12.2006 passed by High Court of Judicature at Bombay, Bench at Aurangabad whereby Writ Petition No. 2195 of 2005 has been dismissed. In said writ petition, the Appellant had sought direction that condition imposed by authorities of Education Department of State of Maharashtra, regarding requirement of passing Postal D. Ed. course by incumbents who possessed Diploma in Teaching after 31.05.1993 from unrecognized university, be relaxed and waived.

2. We have heard learned Counsel for the parties and perused the papers on record.

3. Brief facts of the case are that the Appellant obtained Diploma in Teaching course from "Devi Ahilya Vishwa Vidyalaya, Indore" in the year 1996. He was appointed as Assistant Teacher in "Swami Samarth Vidya Mandir", Jai Bhavan Nagar on 14.06.1999 in the pay scale of Rs. 4500-9000 by Respondent No. 6. It is not disputed that, vide circular/resolution dated 31.05.1993, Diploma in Teaching from "Devi Ahilya Vishwa Vidyalaya, Indore" was already de-recognized for appointment of Assistant Teachers

in primary schools in the State of Maharashtra. However, after being appointed as primary school teacher run by Swami Smarth Vidya Mandir (Respondent No. 6), the Appellant continued in service. Since the qualification obtained by the Appellant from "Devi Ahilya Vishwa Vidyalyaya, Indore" was not recognized, and he apprehended termination from service, as such he knocked the doors of High Court through writ petition which was dismissed on 20.12.2006, as mentioned above.

4. Meanwhile the State Government issued notification dated 12.12.2006 which reads as under:

...

Having consulted with the Maharashtra Public Service Commission it was decided vide Govt. decision dated 10 December, 1998 that, the degree/diploma conferred by the Universities founded as per the laws of the Central and State Legislature, other Educational Institutions founded as per the laws of the Parliament or the Deemed Universities declared under Part-3 under Universities Grants Commission Act 1956 and the degree in the Medical and Related subjects included in the Appendix of Medical Board of India Act 1956 should be deemed as having received automatic sanction for the recruitment on the state service and posts barring teaching posts in the government colleges.

2. Now an up to date list from University Grants Commission recognized of Universities and Institutes is attached with the said order. The list mentioned in Govt. decision, General Administration Department, No. RGD-1398/Admin. No. 67/98/13, dated 10 December, 1998 should now be deemed as revised as above and the degree/diploma conferred by the Universities/Institutes mentioned in the said list should be deemed as having automatic sanction for the purpose mentioned in the above paragraph.

5. In the light of fresh list of recognition from University Grants Commission, "Devi Ahilya Vishwa Vidyalyaya, Indore" finds place at serial No. 125, and it stood recognized by the State Government. As such, the School Education and Sports Department took decision dated 16.12.2010 as follows.

...

Whereas, the Central Administration Department vide Govt. Decision dated 12 December 2006 has issued orders that, the Degree/Diploma conferred by the Universities recognized by the University Grants Commission should be deemed having received automatic sanction for the recruitment on the services and posts in the State barring teacher's posts in government colleges. Accordingly, the Hon'ble High Court, Division Bench, Nagpur has given orders on dated 22 July, 2009 in connection with the Writ Petition No. 4496/2008 that, the government should decide whether the Training Diploma outside the State of Maharashtra are valid or not. There in inconsistency found in the said government decision taken by the School

Education and Sports Department and General Administration Department. In order to do away with the said inconsistency the issue of determining the equivalency of Training Diploma outside the State of Maharashtra was under consideration of the government. In this behalf the decision has been taken as follows.

Govt. decision-Having superseded Paragraph No. 3 in the Government Education Decision dated 31 May, 1993. All the D. Ed. Diploma Holders outside Maharashtra and the Diploma holders who have received Diploma from the Universities recognized by the University Grants Commission and approved by NCTE should be deemed equivalent with the Diploma in Teaching/Education in the State. However, the said candidates would be eligible, subject to following conditions, for the Primary Teaching Staff Recruitment in the State, prescribed vide School Education and Sports Department Govt. decision No. PRE-2006(4767)/PE-1, dated 16 December, 2009-

(1) Such Diploma Holder candidate should have domicile of Maharashtra for at least 15 years.

(2) Such candidate would be required to pass the examination of Marathi Language of the prescribed Board after being selected as Primary Teacher staff.

(3) Such candidate would be required to pass the computer examination of the M.S.C.I.T. authorized by the Maharashtra State Board of Higher and Technical Education, Mumbai as per Govt. decision No. -Training-2000/Admin. No. 61/2001 dated 7 August, 2001.

6. Learned Counsel for the Appellant has drawn our attention also to Annexure No. 8 filed with I.A. No. 5 of 2014, which is copy of order dated 30.09.2011, passed by the Chief Executive Officer, Zila Panchayat, Aurangabad (Respondent No. 4) disclosing benefit given to another teacher namely Gaikwad Yogendra Raghunath, who was treated as a trained teacher.

7. It is argued before us that the case of the Appellant is on the equal footing with Gaikwad Yogendra Raghunath, as such he cannot be deprived of the pay scale admissible to other teachers. Considering the submissions of learned Counsel for the parties, on 05.11.2014 this Court made following observation in the order of said date-

Regard being had to the said decision, we would like the Secretary, Department of Education, to take a decision on the basis of the aforesaid resolutions and keeping in view the doctrine of parity. This Court hopes and trusts that the decision to be taken by the State Government shall be an informed one and definitely indicating the spirit of equality, for it has extended the benefits to similarly situated persons which is prima facie demonstrable. Let the State Government take a decision within a period of eight weeks and file the decision before this Court.

8. In response to above observations, we are informed that the Respondent No. 1 has issued letter dated 03.06.2015 addressed to the Education Officer (Primary) Aurangabad, approving the Diploma in Teaching obtained by Ramesh Rajaram Awchar (Appellant), from outside Maharashtra as equivalent to the D.T. Ed. degree in the State.

9. In view of the above development, we direct the Respondent to take further steps giving the Appellant notional benefit with effect from the date he was appointed as Assistant Teacher in the school run by Respondent No. 6. He shall be paid salary in the pay scale admissible to the Assistant Teachers who had obtained Diploma in teaching from a recognized Institute/University with effect from 03.06.2015. No recovery shall be made from him in respect of salary already paid to him. For the pensionary benefits, if any, he shall be treated to be in service from the date of his initial appointment. The appeal stands disposed of accordingly. No order as to costs.