

University of Rajasthan, Jaipur

Vs

Roshan Lal Seth

Civil Appeal No. 1176 of 1973

(P. Jagmohan Reddy, S., N. Dwivedi, P. K. Goswami JJ)

14.12.1973

JUDGMENT

DWIVEDI, J. –

1. The respondent Roshan Lal Seth offered Economics as his subject for the M.A. Examination. A candidate may take the M.A. Examination either at the end of the two years' integrated course of study or he may appear first in the M.A. Previous Examination and then in the M.A. Final Examination. The respondent opted for the second alternative. In the Previous Examination he appeared in four papers and obtained 25 per cent marks or more in each paper. He also obtained more than 36 per cent of the aggregate marks in the four papers. In the Final Examination he obtained 25 per cent or more marks in each of the four papers. But he failed to obtain 36 per cent of the aggregate marks in the four papers. So the University (the appellant) declared him unsuccessful in the M.A. Examination. Feeling aggrieved, he filed a writ petition in the Rajasthan High Court. The argument before the High Court was that as he has obtained 36 per cent of the aggregate marks in the eight papers, he should have been declared successful in accordance with Regulation 12. The High Court has accepted this argument and has directed the University to declare the respondent as successful in the M.A. Examination. Hence this appeal by the University.

2. The University is constituted under the University of Rajputana Act (hereinafter called the Act). The Act provides for the making of Ordinances and Regulations. The Ordinances are made by the Syndicate under Section 29. The Regulations are made by the Academic Council under Section 31. The decision of the appeal turns on the construction of the following part of Regulation 12 :

"For M.A. Examination taken either at the end of the two years' integrated course of study or in part, viz., Previous and the Final, candidates must obtain for a pass at least 36 per cent marks in each individual paper and also in the viva-voce tests wherever prescribed, he will be deemed to have failed in the examination notwithstanding his having obtained the minimum percentage of marks required in the aggregate for the examination. The marks of the two examinations. Previous and Final, will count together for a place on the pass list of the Final Examinations. No division will be assigned on the result of the Previous Examination.

# First Division .. 60 per cent } Second Division .. 48 per cent } of the aggregate marks."  
Third Division .. 36 per cent }##

3. The true meaning of this provision should be ascertained by reference to its language and context.

Ordinance 210 provides that the examination for the degree of Master of Arts shall consist of two parts, namely, the Previous Examination and the Final Examination. Ordinance 212 provides that a candidate who, after passing the Previous M.A. Examination of the University has completed a regular course of study for one academic year in an affiliated college, shall be admitted to the Final Examination for the degree of master of Arts. These Ordinances plainly show that if a candidate takes the M.A. Examination in part, he has to appear not in one but in two examinations, the Previous Examination and the Final Examination. The language of Regulation 12 also leads to this very inference. The last part of the Regulation speaks of two examinations, the Previous and the Final. Having regard to this context and language, the first part of the above quoted Regulation may be split up in two parts in this manner : (1) "for M.A. Examination taken..... at the end of the two years' integrated course of study, a candidate must obtain for a pass at least 36 per cent of the aggregate in each subject" : and (2) "for M.A. Examination taken.... in part, viz., Previous and Final, a candidate must obtain for a pass at least 36 per cent of the aggregate marks in each subject". In the second part the M.A. Examination is not a single examination, but consists of two examinations, the Previous and the Final. So in the second part the phrase "for M.A. Examination" really means "For M.A. Previous Examination and M.A. Final Examination". In the result, a candidate should obtain at least 36 per cent of the aggregate marks in all the papers taken separately. The total marks obtained in the Previous and Final Examinations cannot be added to make up 36 per cent of the aggregate marks for getting a pass in M.A. But when a candidate passes both the parts after obtaining the minimum marks in each paper and 36 per cent in aggregate, the aggregate marks of both the examinations, namely, Previous and Final will be counted for a place in the pass list, that is to say, for placing him in the First Division, Second Division or Third Division.

4. Counsel for the respondent has submitted that the phrase "For the M.A. Examination" connotes a single examination. But the language and context of the Regulation do not support his argument. The High Court overlooked the context and plain language of the Regulation.

5. The High Court has laid some stress on the words "in each subject" in the Regulation. The subject offered by the respondent no doubt was Economics. But it was his subject in the M.A. Previous Examination as well as in the M.A. Final Examination. So it was necessary for him to obtain at least 36 per cent of the aggregate marks in this subject in the Previous Examination as well as in the Final Examination. In M.A. a candidate is required to take only one of the subjects enumerated in Ordinance 213. Ordinance 213 contains a list of 15 subjects. Economics is one of them. The phrase "in each subject" in the Regulation is likely to create an impression that a candidate has to offer more than one subject in the M.A. Examination. But on a fair reading of the Regulation we have no doubt in our mind as to what it means. A candidate must obtain for a pass at least 36 per cent of the aggregate marks in the subject offered by him in the Previous Examination as well as in the Final Examination.

6. As the language of the Regulation is plain and unambiguous, it is not legitimate to refer to its history to elucidate its meaning.

7. Having regard to the foregoing discussion, we are of opinion that the High Court's construction of Regulation 12 is not correct. The appeal is accordingly allowed and the order of the High Court is set aside. However, in accordance with the earlier order of the Court, the appellant shall bear the costs of the respondent.

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