

Dr. Ram Sevak Singh

Vs

Dr. U. P. Singh

Civil Appeal No. 6543 of 1997

(K. Venkataswami, S. Rejendra Babu JJ)

21.01.1999

JUDGMENT

S. Rejendra Babu J

1. A vacancy having arisen in respect of a post of Principal in Raja Harpal Singh Degree College, Singramau, District Jaunpur, the U.P. Higher Education Service Commission (hereinafter referred to as 'the Commission') was advertised on November 30, 1989 to fill up the same. The appellant and respondent No. 1, amongst others, applied for the same. On the recommendation of the Commission the Committee of the Management of the said College issued an appointment letter in favour of the appellant.

2. A Writ Petition was filed by respondent No. 1 to restrain the appellant from functioning as Principal of the said College with other incidental reliefs. Contention put forth before the High Court in the course of the proceedings before it was as to whether the appellant possessed sufficient qualifications for appointment to the said post and whether relaxation granted by the Commission was appropriate. The High Court was of the view that the qualification possessed by him of Master's Degree in Education is not an academic qualification. Relying upon the decision of this Court in *Dr. Prit Singh v. S.K. Mandal, 1993 Supp. (1) SCC 714*, the High Court took the view that a person having secured third division in M.A. who cannot be considered by any university even for the post of Lecturer cannot be qualified for being appointed as Principal of any college if later he secures a high second class marks in M.Ed. examination. On that basis the High Court allowed the writ petition and restrained the appellant from functioning as Principal. Hence these appeals by special leave.

Qualification required for appointment as Principal is as follows :-

(a) A consistently good academic record (that is to say, the overall record of all assessment throughout the academic career of a candidate) with first or high second class (that is to say, with an aggregate of more than 54 per cent marks) Master's degree or an equivalent degree of a foreign University in one of the subjects taught in the college or in a subject allied or inter-connected therewith; and

(b) A doctorate degree in one of the subjects taught in the college, with 7 years experience of teaching degree classes; Provided that if a candidate possesses 15 years or more experience of teaching degree classes or 10 years or more experience of teaching Post-graduate classes or if he is or has been a confirmed Principal of four years or more standing of any Degree College, the Selection Committee may relax

the requirement of doctorate degree.

The appellant possessed the following qualifications :-

"46.4% in Intermediate, 55.8% in B.Sc., 52% in B.Ed. and 55% M.Ed. Thus in education respondent No. 4 had good record having average 51.40%. He had to his credit 16 years' teaching experience and a vast administrative experience of about 16 years as Hostel Superintendent."

3. The Commission granted relaxation in respect of the requirement of "consistently good academic record" in view of the vast experience possessed by him. The Commission proceeded on the basis that he had obtained 55% in M.Ed. examination and, therefore, became qualified to be appointed as Principal under Statute 11.13-A.

4. The contention put forth on behalf of respondent No. 1 is that the appellant possessed less than 54% marks in M.Sc. examination and, therefore, he did not satisfy the requirement of the aforesaid Statute 11.13-A. It is contended that the exemption could not be granted in respect of qualifications. However, the High Court proceeded to decide the matter on the basis that M.Ed. degree is not an academic qualification as referred to in Statute 11.13-A and Master's Degree would not include M.Ed. degree which is a professional degree and as such is liable to be distinguished as an academic qualification, relying upon the decision of this Court in Dr. Prit Singh (supra) and, therefore, on the basis that the appellant lacked appropriate qualification did not consider other contentions as to whether relaxation was granted rightly and proceeded to accept that the Commission, though could relax in respect of consistent good academic record, could not have relaxed the condition with reference to Master's Degree, relying upon the decision of that High Court in another matter.

5. Therefore, the principal question that falls for consideration is whether M.Ed degree possessed by the appellant was a qualification for the purpose of appointment as Principal. In Dr. Prit Singh (supra) the qualification required was a Master's Degree in any subject and also a degree in education, whereas in the present case the qualification required is Master's Degree or an equivalent degree in one of the subjects taught in the college or in a subject allied or inter-connected therewith. The distinction between the requirement of qualification in these two cases is obvious. In Dr. Prit Singh (supra) the required qualification as a Master's Degree and a degree in education as an additional qualification. In the present case, the College imparts education in teaching as well and, therefore, Master's Degree in Education is a degree in respect of a subject taught in the College. We cannot apply the ratio settled in Dr. Prit Singh (supra) irrespective of the qualifications required for a particular post. In the present case a Master's Degree required can include a teaching subject and, therefore, M.Ed. degree possessed by the appellant was held to be a sufficient qualification by the Commission. It cannot be said that the principles stated by this Court in Dr. Prit Singh (supra) can be applied in the present case because in Dr. Prit Singh (supra) the qualifications were a Master's Degree and a degree in education, whereas in the present case a Master's degree in any subject taught in the college was the requisite qualification. We think the appellant satisfied the same. In regard to other qualification of "consistently good academic record" which had been relaxed, this has not been seriously disputed.

6. The other question was whether there could have been relaxation in respect of M.Sc. in which the appellant possessed less than 54%. That was not the basis upon which the Commission proceeded. The Commission proceeded on the basis that the appellant possessed M.Ed. degree which though a professional degree was one of the subjects taught in the college. If that is so, we do not think that

the ratio laid down in Dr. Prit Singh (supra) could have been applied to the facts of the present case.

7. In the circumstances, we allow these appeals, set aside the order made by the High Court and dismiss the writ petition filed by the respondents.