

SUPREME COURT OF INDIA

Saurabh Pal & anr.

Vs.

The Chancellor, Veer Bahadur

C.A.No.596 of 2008

K.G. Balakrishnan,CJI. R.V.Raveendran and J.M.Panchal,JJ.)

22.01.2008

ORDER

Arising out of SLP(C) 10251/2006

1. Leave granted.

2. Selection was conducted to the four posts of Lecturer in the Department of MCA, Uma Nath Singh Institute of Engineering and Technology, affiliated with Veer Bahadur Singh Poorvanchal University, Jaunpur. The Selection Committee recommended the following names for the four vacant posts in Lecturers in the department of MCA: (1) Saurabh Pal (Appellant No.1); (2) Nupur George; (3) Amrendra Singh; and (4) Prabhat Verma. It also prepared a waiting list with two names: (i) Surjeet Kumar (Appellant no.2) and (ii) Shahzad Shamim (Fifth respondent).

3. The first appellant who secured first rank and three other selected candidates were appointed as Lecturers. The second appellant-Surjeet Kumar who was at serial number one in the waiting list was subsequently appointed as one of the four candidates appointed as Lecturer did not join.

4. The 5th respondent-Shahzad Shamim, the second wait listed candidate filed a writ petition contending that the appellants did not possess the requisite qualification for the post and, therefore, their selection as Lecturers was illegal. He contended that the appellants possessed only a degree in M.Sc. (Computer Science) whereas the others possessed the degree of "MCA" or "BE"; that M.Sc. (Computer Science) was not prescribed on qualification by AICTE; and that, therefore, the appointment of appellants was illegal; and if they were excluded, he becomes entitled to be appointed.

5. The 5th respondent relied on Table-E-2 forming part of AICTE Norms which prescribed the minimum qualification and experience for Teaching Posts in Degree Level Technical

Institutions, Master of Computer Application (MCA) Programmes, as follows: "First Class B.E./B.Tech. in Computer Science /Engineering/Technology OR First Class MCA Degree." However, Note (2) appended to Table-E-2 provided as follows:

"In the discipline of Computer Science/Engineering /Technology, in lieu of the "First Class degree at Bachelor's and/or Master Level in the appropriate branch", first class Master's Degree in Computer Science/Engineering/Technology together with a First Class Bachelor's Degree in any area of Engineering/Technology will be acceptable."

6. The University which was a respondent in the writ petition filed by the 5th respondent, however, contended that both the appellants possessed the qualification prescribed by it in the recruitment advertisement and the qualification prescribed by it was in accordance with the AICTE Norms. The qualification prescribed in the advertisement was as follows: Lecturer: (For Engineering Branches) Essential: First Class Bachelors' Degree in appropriate branch of Engineering Technology. Desirable: Master's degree in relevant branch. The University submitted that "M.Sc. (Computer Science)" was treated as equivalent to 'MCA' and, therefore, the appellants were qualified for being appointed as a lecturer-MCA,

7. The High Court relying on Table=E-2 of AICTE Norms held that the two appellants did not possess the requisite qualification and therefore, set aside their selection. Aggrieved by the same, the present appeal is filed.

8. We heard learned counsel for the appellants and learned counsel for the 5th respondent.

9. Table-E-2 issued by the AICTE when read with Note (2) under Table-E-2 clearly shows that the degree possessed by the appellants was also a requisite qualification for appointment as Lecturers in MCA. The Division Bench of High Court clearly mis-read Table E-2 of AICTE Norms as it failed to notice Note (2) to Table E-2. We are informed that the copy of Table E-2 produced by the 5th respondent in the writ petition was not complete and did not contain the Note. Be that as it may. We are satisfied that the appellants possessed the requisite qualification. As the decision of the High Court setting aside their appointments is erroneous, it is set aside and the challenge to the appointment of the appellants as Lecturers is rejected. Their appointment is upheld.

10. The appeal is disposed of accordingly.