

CASE NO.:
Appeal (civil) 5152 of 2006

PETITIONER:
The Deputy Director of Public Instruction And District Recruitment Authority & Ors

RESPONDENT:
Shaik Moula & Anr

DATE OF JUDGMENT: 22/11/2006

BENCH:
ARIJIT PASAYAT & LOKESHWAR SINGH PANTA

JUDGMENT:
J U D G M E N T
(Arising out of SLP (C) No. 23576 of 2004)

ARIJIT PASAYAT, J.

Leave granted.

Challenge in this appeal is to the order passed by the Division Bench of the Karnataka High Court dismissing writ petition filed by the appellants. Challenge before the High Court was to the order passed by the Karnataka Administrative Tribunal (in short the 'Tribunal').

Background facts in a nutshell are as follows:-

Respondent no.1 filed an application before the Tribunal under Section 19 of the Administrative Tribunal's Act, 1985 (in short the 'Act') praying to quash the selection made by the appellants and for a direction to include his name for selection under category IIB (reserved category) and to issue order of appointment as primary school teacher in the Hindi subject. The applicant-respondent no.1 herein had filed an application for appointment as primary school Assistant Teacher (Hindi) in Bangalore Rural District. The same was rejected on the ground that he did not possess the requisite qualification. It was pointed out that the requisite qualifications as indicated in the Notification No.C1.Pra.Sha.Shi.Ne/01/2001-02 dated 8.9.2001 are as follows:

"1. Must have passed PUC and TCH or equivalent examinations

* But the candidates who had taken admission to TCH course prior to 1989 will be eligible if they have passed SSLC and TCH or equivalent examination".

According to the appellants, the respondent no.1 did not have the qualification of TCH. He had passed the examination which is equivalent to Teacher Training Certificate (TTC). The Tribunal held that the respondent no.1 possessed the requisite qualification. For that purpose reliance was placed on proceedings of the Government of Karnataka (Order No.EF.43 PHN 72 Bangalore, Dated: the 24/26th August, 1974).

Challenging order of the Tribunal, a writ petition was filed before the High Court reiterating the stand that the qualification possessed by the respondent no.1 was not equivalent to TCH but was equivalent to TTC. The plea was rejected holding that bare reading of the Government's order dated 24/26th August, 1974 indicated that the qualification possessed by the respondent no.1 was equivalent to TCH.

Learned counsel for the appellants submitted that both the Tribunal and the High Court fell into grave error in coming to the conclusion that the qualification possessed was equivalent to TCH with reference to the Government's order dated 24/26th August, 1974. In that order there is no indication even in the manner as decided by the Tribunal or the High Court.

Learned counsel for the respondents on the other hand submitted that bare reading of the aforesaid order makes the position clear that the courses indicated in the Government order had to be treated as equivalent courses for the purpose of teaching Hindi in high school or secondary school and training institutions. That being so, the qualification was applicable for the purpose of appointment to the primary school.

It is to be noted that the Tribunal was really confused as to what was the subject matter of dispute. It is clear from the following observation of the Tribunal:

"Undisputedly, the documents produced by the applicant demonstrate that he has passed SSLC in the year 1990 (Annexure \026 A2, is the Marks Card), PUC in the year 1993 (Annexure \026 'A4' is the Marks Card) and Hindi Uttama of Mysore Hindi Prachar Parishad (Annexure \026 'A4' is the Certificate). The applicant has not passed TCH. But his case is that a pass in Hindi Shikshana Praveen Pariksha of Kendriya Hindi Shikshana Mandal Agra is recognized by the Government of Karnataka as equivalent to TCH and as such the applicant satisfies the requirements of education qualification. In the circumstances the only question is whether Hindi Shikshana Praveen Pariksha passed by the applicant is equivalent to Teachers Training Certificate?"

(underlined for emphasis)

The High Court proceeded on the basis as if the Government's order dated 24/26th August, 1974 made the position clear that the qualification possessed by respondent no.1 was equivalent to TCH. There is really no such indication. Whether a particular qualification is equivalent to another has to be specifically indicated. That has not been done. Inferential conclusion, that too without appreciating the nature of the controversy, makes decisions of the Tribunal and the High Court vulnerable. They are accordingly set aside.

The appeal is allowed but without any order as to costs.