

A THE DEPUTY DIRECTOR OF PUBLIC INSTRUCTION
AND DISTRICT RECRUITMENT AUTHORITY & ORS.

v.

SHAİK MOULA AND ANR.

NOVEMBER 22, 2006

B [ARIJIT PASAYAT AND LOKESHWAR SINGH PANTA, JJ.]

Service Law:

C *Appointment of primary school teacher—Dispute if Respondent No. 1*
possessed requisite qualification—Courts below with reference to a
Government Order held that it indicated that Respondent No. 1 possessed
equivalent qualification—Propriety of—Held, improper since there is no
such indication in the Government Order—Courts below erred in making
D *inferential conclusion, that too without appreciating the nature of the*
controversy.

Respondent No. 1 filed application for appointment as a primary school
teacher in the Hindi subject. The application was rejected on the ground that
Respondent No. 1 did not possess the requisite qualification. According to
E the Appellants, Respondent No. 1 did not have the requisite qualification of
TCH or any qualification equivalent to it and had only passed an examination
equivalent to Teacher Training Certificate (TTC). However, the Tribunal as
well as the High Court held that bare reading of the Government's order dated
24/26th August, 1974 indicated that Respondent No. 1 possessed the requisite
qualification inasmuch the qualification possessed by him was equivalent to
F TCH. Hence the present appeal.

Allowing the appeal, the Court

HELD: The Tribunal was really confused as to what was the subject
matter of dispute which is clear from its observations. The High Court
G 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. [320-E-F; 321-A-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5152 of 2006.

From the Judgment and Order dated 16-3-2004 of the High Court of Karnataka at Bangalore in W.P. No. 2768/2003 (S-KAT).

Snjay R. Hedge for the Appellants.

S. Nanda Kumar, A. Santha Kumar, Mayil Samy, Ms. Renuka Devi and V.N. Raghupathy for the Respondents.

The Judgment of the Court was delivered by

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

A 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).

B 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.

C Leaned 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.

D 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.

E 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:

F "Undisputedly, the documents produced by the applicant demonstrate that he has passed SSLC in the year 1990 (Annexure - A2, is the Marks Card), PUC in the year 1993 (Annexure - 'A4' is the Marks Card) and Hindi Uttama of Mysore Hindi Prachar Parishad (Annexure '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?*"

H (emphasis supplied)

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. A B

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

B.B.B.

Appeal allowed.