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DR. BHANU PRASAD PANDA

v.

THE CHANCELLOR, SAMBALPUR UNIVERSITY AND ORS.

SEPTEMBER 12, 2001

B

[S. RAJENDRA BABU AND DORAISWAMY RAJU, JJ.]

Service Law:

C

Appointment of lecturer—Minimum relevant academic qualifications prescribed for the post—Relaxation of qualifications—Rejected by University Grants Commission—On challenge by an unsuccessful candidate, Chancellor terminating the services of the candidate—Affirmed by High Court—On appeal held, no interference called for—Held, appointment irregular—Section 5(10) of the Orissa Universities Act, 1989—Universities.

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The appellant was working as Research Assistant, who applied for the Post of Lecturer in Political Science against the advertisement issued by the respondent-University. The Selection Committee found him suitable and recommend him for appointment. He joined the post. One of the unsuccessful candidates challenged the appointment of the appellant.

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The Chancellor issued 'show cause notice' to the appellant as to why his appointment should not be cancelled and ultimately found him not eligible as he lacked minimum academic qualifications and that the selection of the appellant was made ignoring the claims of the qualified candidates. In exercise of power u/s. 5(10) of Orissa Universities Act, the

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Chancellor annulled the appointment with a direction to terminate the service of appellant and to make fresh appointment. Appellant approached the High Court and it affirmed the order of the Chancellor. Hence this appeal.

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It was contended for the appellant that he was fully qualified and satisfied the norms prescribed and minimum prescribed marks was secured in the subject of 'Public Administration' which constitute sufficient compliance and satisfaction of academic qualification stipulated and that the competent authority had found him eligible and such a decision ought not to have been interfered by the Chancellor and the High Court.

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Dismissing the appeal, the Court

HELD : The stipulation regarding the minimum academic qualification was good academic record with requisite marks in/equivalent grade at master degree level in the relevant subject. The appointment was for the Post of Lecturer in 'Political Science' and not in 'Public Administration' and matterwise, these two subjects are different. Merely because the Department is of Political Science and Public Administration, the essential academic qualification of particular standard and grade in the relevant subject for which the 'Post' is advertised, cannot be rendered redundant/ violated by ignoring the relevant subject by the name of the Department only. Which in substance encompass two different disciplines that merely the post referred is being available in the Department is no justification to do away/disprove with the essential academic qualifications in the relevant subject for which the post is advertised. Besides 'University Grants Commission' rejected the proposal for relaxation of minimum marks condition in the relevant subject for the appellant. Hence no exception could be taken to the decision of Chancellor and no challenge could be countenanced against the decision of High Court. [66-E-F; G-H; 67-A; B-C]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3525 of 1997.

From the Judgment and Order dated 25.2.97 of the Orissa High Court in O.J.C. No. 2521 of 1995.

Rakesh Diwedi, Naresh K. Sharma and R.P. Wadhvani for the Appellant.

P.N. Misra, S. Misra and Debasis Misra for Respondent No.1.

A. Subba Rao for Respondent Nos. 2 & 3.

G.K. Banerjee and Ms. Nandini Gore for Respondent No. 4.

The Judgment of the Court was delivered by

RAJU, J. This appeal filed against the order of a Division Bench of the Orissa High Court at Cuttack dated 25.2.97, involves a challenge to the order sustaining in its turn the order passed by the Chancellor, Sambalpur University, annulling the appointment of the appellant to the post of Lecturer in Political Science, on the ground that he did not possess the minimum required academic qualification prescribed by the University Grants Commission.

The appellant was initially appointed as a Research Assistant in the Post-Graduate Department of the respondent-University and joined as such on

A 6.7.79. In the course of his employment, he performed his duties for collection, compilation, tabulation and interpretation of data in addition to assisting the M. Phil. Programme. On 30.11.92, the University issued an advertisement inviting applications in the prescribed form for certain posts enumerated therein, of which the Lecturer in Political Science was also one. Note 4 indicated that the details with regard to the nature specialization, qualification required etc. for the different posts will be available along with the application form. The details so made available contained certain stipulations and so far as the posts of Lecturer are concerned, in the following terms:

C “Lecturer: Arts, Sciences, Social Sciences, Commerce, Education, Physical Education, Foreign Languages and Law. Good academic record with at least 55 percent marks or an equivalent grade of Master’s degree level in the *relevant subject* from an Indian University or an equivalent degree from a foreign university.

[emphasis supplied]

D Candidates, besides fulfilling the above qualification should have cleared the eligibility test for Lecturers conducted by University Grants Commission, CSR at similar tests accredited by U.G.C. Exception from passing the Lecturers eligibility test (GATE or Engineering graduates only) is only applicable to these candidates who have done Ph.D. upto December, 1992 or M. Phil upto March 1991, provided such candidates have secured 55 percentage marks at the Master’s level. Research Assistants of Sambalpur university having 2nd class Master’s degree but have secured less than 55 per cent marks at the Master’s degree level and have earned M.Phil. upto March 1991 or Ph.D. upto December, 1992 with certificates, mark sheets, evidence of teaching/research experience, testimonials and other publications. Applications incomplete in any manner are liable to be summarily rejected.

F (b) Candidates in service should route a copy of their applications through proper channel. No applicant will be interviewed unless his/her application has been duly submitted through his/her employer or he/she produces a “No Objection” certificate from his/her employer at the time of interview.

G (c) All applications and correspondence are to be addressed to the undersigned by designation and not by name.

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(d) The candidates are required to appear at an interview before the Selection Committee at their own expenses.

(e) Issue of this advertisement does not make it binding on the University to make appointment.

(f) Retired persons who have not attained the age of 65 years may also apply for the appointment on tenure basis.

(g) SC/ST candidates are required to obtain Caste Certificate from the District Magistrate/Collector to be eligible to apply. However, the consideration of their application is subject to the approval of U.G.C."

As to the nature of posts, specialization etc. it has been stated as follows:

"S.No.	Name of the Dept. College	Name of Post	No. of Post	Specialisation
xx	xx	xx	xx	xx
17.	Pol. Science & Pub. Admn."	Lecturer	One	Open

The appellant was one of the applicants to the Post of Lecturer in Political Science and the Selection Committee found him suitable and recommended his only name for appointment, as such. On 30.8.93, he was appointed and joined in the post. One of the unsuccessful candidates Sri B.S. Chandel made representation to the Chancellor that the appointment of the appellant was irregular and in violation of the provisions of the Act and statutes. The Chancellor issued a show-cause notice as to why the appointment should not be cancelled. Sri B.S. Chandel also appears to have filed a Writ Petition in the High Court but the same was disposed of to await the decision of the Chancellor and to approach the High Court, if aggrieved, against the decision to be taken by the Chancellor. The Chancellor ultimately found that the appellant was not eligible for the appointment in question as he lacked the minimum academic qualifications prescribed by the University Grants Commission, that he was awarded excess marks towards academic career and teaching experience and that the selection of the appellant was made by ignoring the claims of the qualified candidates. By his order dated 5.4.95, the Chancellor, in exercise of powers under Section 5(10) of the Orissa Universities Act, 1989, annulled the appointment with a direction to terminate the services of the appellant and re-advertise the post for being filled up afresh. Aggrieved, the

A appellant filed OJC No.2521 of 1995 before the High Court. The High Court also affirmed the decision of the Chancellor and did not agree with the claims of the appellant, by dismissing the Writ Petition.

B Heard, Shri Rakesh Diwedi, Senior Advocate, for the appellant, Shri P. N. Misra, Senior Advocate, for the Chancellor and Sri A. Subba Rao for the University and Sri G.K. Banerjee for the University Grants Commission. The learned senior counsel for the appellant vehemently contended that the appellant was fully qualified and satisfied the norms prescribed, that the minimum prescribed marks was secured by him in the subject of Public Administration and this constitutes sufficient compliance and satisfaction of the academic qualification stipulated. It was also contended that the competent authority, well-versed in academic matters, have found the appellant to be fully eligible and such a decision ought not to have been interfered with by the Chancellor and that the High Court was in error in not setting aside the order of termination of the services of the appellant. All the learned counsel appearing for the respondents, with equal vehemence, attempted to demonstrate that the Chancellor was right in his decision and when the University Grants Commission also declined to grant relaxation, the services of the appellant had to be necessarily terminated for want of prescribed academic qualification on his part.

E We have carefully considered the submissions of the learned counsel appearing on either side. The stipulation regarding the minimum academic qualification reads, "good academic record with at least 55 per cent marks or an equivalent grade of Masters degree level in the *relevant subject* from an Indian University or an equivalent degree from a foreign university". Though the Department concerned for which the appointment is to be made is that of 'Political Science & Public Administration', the appointment, with which we are concerned, is of the Lecturer in Political Science and not Public Administration and subject matter-wise they are different and not one and the same. It is not in controversy that the posts of Lecturers in Public Administration and in Political Science are distinct and separate and on selection the appellant could not have been appointed as Lecturer in Public Administration be it in the Department of Political Science and Public Administration since the advertisement was specifically to fill up the vacancy in the post of Lecturer in Political Science. Merely because the Department is of Political Science and Public Administration — the essential requirement of academic qualification of a particular standard and grade, viz., 55%, in the "relevant subject" for which the post is advertised, cannot be rendered redundant or violated by ignoring the

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relevant subject and carried away by the name of the Department only which, in substance, encompass two different disciplines. That merely depending upon the context he was being referred to or the post is referred to as being available in the Department of political science and Public Administration, is no justification to do away or dispense with the essential academic qualification in the relevant subject for which the post has been advertised. Consequently, the Resolution No. 6.2 dated 18.2.92 or extracts provided from the proceedings of the Board of Studies dated 2.3.96 cannot be of any assistance to support the claim of the appellant. The rejection by the U.G.C. of the request of the Department in this case to relax the condition relating to 55% marks at Post-Graduation level for Research Assistant having M. Phil upto March 1991 or Ph.D. upto December 1992, is to be the last word on the claim of the appellant and there could be no further controversy raised in this regard. In view of the above, no exception could be taken to the decision of the Chancellor and no challenge could be countenanced in this appeal against the well-merited decision of the High Court.

Consequently, the appeal fails and shall stand dismissed. Our attention has been invited by the learned counsel for the University Grants Commission to certain latest amendments made effective from March 2000 issued by the University Grants Commission, and the fact that if the post is re-advertised, the appellant may be eligible in respect of academic qualification also, as per the revised standards and norms for any future appointment. These are matters for the consideration of the concerned and competent authorities, as and when occasion arise therefor and it is not for this Court to advert to those aspects in this appeal, which deserves to be considered only in the light of the stipulations in force and governing the appointment made during the relevant point of time. The parties shall bear their respective costs.

S.K.S.

Appeal dismissed.