सिविल अपील संख्या–3551 ऑफ 1992

डॉ0 प्रीत सिंह बनाम् एस0के0 मंगल व अन्य

आदेश दिनांक–02 सितम्बर 1992

मुख्य बिन्दु– किसी विषय में एम0ए0 इन आर्टस एवं एम0एड0 डिग्री से अलग।

(BEFORE M.N. VENKATACHALIAH, P.B. SAWANT AND N.P. SINGH, JJ.)

DR PRIT SINGH — Appellant;

Versus

S.K. MANGAL AND OTHERS — Respondents.

Civil Appeal No. 3551 of 1992†, decided on September 2, 1992

Service Law — Appointment — Qualification — Principal of a college of Education — 'First or high second class Master's degree in any subject and also a degree in education' — 'Master's degree in any subject', held in the context, does not comprehend Master's degree in Education

Service Law — Appointment — Qualification — Person not eligible for not possessing requisite qualifications on the date of appointment would not become eligible on subsequent amendment of the qualification requirement

Held:

The Degree of Master of Arts is an academic qualification, whereas Degree of Master of Education is a professional qualification. When the qualifications required "a consistently good academic record *with* first or high second class (55% marks/grade B in the seven point scale) Master's Degree in any subject"; it shall mean an academic qualification like Master of Arts. The said requirement was prescribed with "a consistently good academic record". That Master's Degree shall mean Degree of Master of Arts in any subject, is apparent also from the fact that apart from that degree the candidate was required to possess also "Degree in Education" which will mean B.Ed. or M.Ed. Normally if the expression "Master's Degree" was to include even the Master's Degree in

† From the Judgment and Order dated May 7, 1992 of the Punjab and Haryana High Court in Letters Patent Appeal No. 605 of 1992

Education (M.Ed.) there was no necessity of prescribing the third requirement of a "Degree in Education". If the claim that "Master's Degree" shall include a Degree of Master of Education, is accepted, it will lead to an anomalous position. The appellant had not secured even second class marks in his Master of Arts Examination whereas the requirement was first or high second class (55%). On the relevant date the appellant did not possess the requisite qualifications. (Paras 11 and 12)

If he was not eligible for appointment in terms of the prescribed qualifications on the date he was appointed by the Managing Committee subject to the approval of the Vice-Chancellor, then later he cannot become eligible after the qualifications for the post were amended. On the date of the appointment the appellant did not possess the requisite qualifications and as such his appointment had to be quashed. (Para 13)

Appeal dismissed R-M/TLL/11566/SLA

Advocates who appeared in this case :

P.C. Jain, Senior Advocate (Manoj Swarup, Advocate, with him) for the Appellant;
Hardev Singh, Senior Advocate (Dr I.B. Gaur, Advocate, with him) for the Respondents.

The Judgment of the Court was delivered by

N.P. SINGH, J.— Special leave granted.

2. The appeal has been filed for setting aside the judgment of the High Court, quashing the appointment of the appellant as Principal of Chhotu Ram College of Education, Rohtak (hereinafter referred to as 'the said College').

3. An advertisement was issued on June 30, 1986 inviting applications for the post of Principal of the said College. After interview of the applicants the appellant was selected for the said post and he was appointed as the Principal by the Managing Committee of the College in question on July 22, 1986. As per the University regulations any such appointment was required to be approved by the Vice-Chancellor. The Vice-Chancellor declined to approve the said appointment of the appellant on the ground that he did not fulfil the requisite qualifications for the post, and the decision of the Vice-Chancellor was duly communicated to the Managing Committee of the College by a letter dated August 24, 1987. However, later the Vice-Chancellor approved the appointment of the appellant by his order dated November 13, 1987 with effect from October 16, 1987.

4. The validity of the appointment of the appellant was questioned in the connected writ application on the ground that on the date of appointment the appellant did not possess the requisite qualifications. It was pointed out that as the appellant did not possess the requisite qualifications, Vice-Chancellor did not approve his appointment but

later he approved the appointment only with effect from October 16, 1987 when the qualifications prescribed for Principal were amended on October 15, 1987. It was suggested that this change was introduced with mala fide intention in order to facilitate the appointment of the appellant.

5. However before this Court, on behalf of the appellant, a stand was taken that he possessed the requisite qualifications prescribed for the post of Principal, on the date he was appointed by the Managing Committee, and the Vice-Chancellor should have approved his appointment with effect from the date of his appointment as the Principal, by the Managing Committee of the College.

6. In order to appreciate the controversy it will be proper to quote the requisite qualifications prescribed for the Principal of a recognised College of Education, which existed and which were replaced on October 15, 1987.

Before Amendment	*After Amendment*
(*a*) A consistently good academic record with first or high second class (55% marks/grade B in the seven point scale) Master's Degree in any subject and also a degree in education of an Indian University or equivalent degree of foreign University (relaxable if a candidate has to his credit research work of very high standard) and	(*a*) A good academic record with at least first or high second class (grade B in the seven point scale) at Master's Degree in Education and not necessarily also at Master's Degree in the relevant subject (relaxable if a candidate has to his credit research work of very high standard or University approved teacher before January 27, 1976).
(*b*) An M. Phil degree or a recognised degree beyond the Master's level or published work indicating the capacity of a candidate for independent research work: Provided that if a candidate possessing the qualifications as at (*b*) is not available or not considered suitable, the college on the recommendation of the Selection Committee may appoint a person possessing the qualification as at (*a*).	(*b*) No change.

7. The academic records of writ petitioner-respondent 1 and the appellant are as follows :

	Respondent 1		*Appellant*
a	Matric	62%	43.8% (219/500)
	B.A.	42%	48.6% (243/500)
	B.Ed.	53%	Second Division Less than 55%
	M.A.	58%	47.1% (377/800)
	M.Ed.	67%	60% (360/600)

b For the post of Principal in a recognised College of Education, three qualifications were prescribed (*i*) A consistently good academic record; (*ii*) with first or high second class (55% marks/grade B in the seven point scale) Master's Degree in any subject and (*iii*) a Degree in Education of c an Indian University or equivalent degree of foreign University.

8. The basic fault which has been found by the High Court in respect of the appellant is that in the Master of Arts Examination the appellant had secured only 47.1% marks, whereas according to the qualifications prescribed the candidate was required to secure either first or high d second class (55%) marks at the Master's Degree Examination.

9. According to the learned counsel appearing for the appellant, "Master's Degree" shall include even Master's Degree in Education (M.Ed.) and as the appellant had secured 60% marks at the examination for Master of Education (M.Ed.), it will be deemed that he was holding e Master's Degree in Education, having secured more than 55% marks. In this connection, our attention was drawn to the Degree of Master of Education awarded to the appellant from the Kurukshetra University certifying that the appellant had obtained "Degree of Master of Education".

f **10.** As a first impression this argument is attractive especially because the qualifications aforesaid simply speak of "Master's Degree"; they do not say Master of Arts Degree. It is well known that after B.A. Examination a person has to pursue studies for two years for obtaining g Master's Degree in Arts (M.A.) whereas after passing B.A. Examination any person interested in professional side of the education, may become B.Ed. after completing the course for one year. Similarly for M.Ed. (Master of Education Degree) the course is of one year only. In this background the question which has to be answered is as to whether when h the aforesaid qualification required for the post of Principal is "Master's Degree", whether it shall include Master of Education Degree also.

11. It need not be pointed out that the Degree of Master of Arts is an academic qualification, whereas Degree of Master of Education is a professional qualification. According to us, when the qualifications re- i quired "a consistently good academic record *with* first or high second

class (55% marks/grade B in the seven point scale) Master's Degree in any subject"; (emphasis added) it shall mean an academic qualification like Master of Arts. The said requirement was prescribed with "a consistently good academic record". That Master's Degree shall mean Degree of Master of Arts in any subject, is apparent also from the fact that apart from that degree the candidate was required to possess also "Degree in Education" which will mean B.Ed. or M.Ed. Normally if the expression "Master's Degree" was to include even the Master's Degree in Education (M.Ed.) there was no necessity of prescribing the third requirement of a "Degree in Education".

12. If the claim of the appellant that "Master's Degree" shall include a Degree of Master of Education, is accepted, it will lead to an anomalous position. A person having secured third division in M.A. who cannot be considered by any University even for the post of Lecturer, will become qualified for being appointed as a Principal of any College, if later he secures a high second class marks in M.Ed. Examination by completing a course of one year. It need not be pointed out that the sole object of prescribing qualification that the candidate must have a consistently good academic record with first or high second class Master's Degree for appointment to the post of a Principal, is to select a most suitable person in order to maintain excellence and standard of teaching in the institution apart from administration. In the present case there is no dispute that in the Master of Arts Examination, the appellant secured only 47.1% marks which is not even a second division. We were informed that in the concerned University, second division is 50% and above. The appellant had not secured even second class marks in his Master of Arts Examination whereas the requirement was first or high second class (55%). The irresistible conclusion is that on the relevant date the appellant did not possess the requisite qualifications.

13. We fail to understand as to how the Vice-Chancellor who himself was of the opinion that the appellant did not possess the requisite qualifications for the post of Principal and who had refused to approve the said appointment, later approved the same appointment on November 13, 1987 with effect from October 16, 1987. It has rightly been submitted on behalf of the respondents that the Vice-Chancellor approved the appointment after October 15, 1987 when the amendment was made in the prescribed qualifications for the post of Principal of a recognised College of Education. If he was not eligible for appointment in terms of the prescribed qualifications on the date he was appointed by the Managing Committee subject to the approval of the Vice-Chancellor, then later he cannot become eligible after the qualifications for the post were amended. As such we are in agreement with the view expressed by

the High Court, that on the date of the appointment the appellant did not possess the requisite qualifications and as such his appointment had to be quashed.

14. We are informed that on the basis of the new qualifications prescribed, applications have been invited and the appellant has also applied for the said post. All steps should be taken expeditiously and without any further delay to complete the process of selection and appointment for the post of the Principal of the said College in accordance with law.

15. With the aforesaid directions this appeal is dismissed. But in the circumstances of the case there will be no order as to costs.