

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.710/2016.

(D.B.)

Santosh Bhaskarrao Badukale,
Aged about 41 years,
Occ-Service,
R/o Durga Mata Chowk, Digras,
District-Yavatmal.

Applicant.

-Versus-

1. The Principal Chief Conservator of Forests,
(Administration, Subordinate Cadre), (M.S.),
2nd floor, Van Bhavan, Ramgiri Road,
Civil Lines, Nagpur.
2. The Chief Conservator of Forests (Territorial),
Shishu Vihar Building, State Bank Square,
Dhamangaon Road, Yavatmal.
3. The Deputy Conservator of Forests,
Dr. Gunvantrao Deshmukh School, Shrirampur,
Pusad, Tq. Pusad, Distt. Yavatmal.
4. Mumbai Hindi University through its
Vice-Chancellor, 306/307,
Udyog No.1, Dharamvir Sabhajiraje Road,
Mahim (West), Mumbai-16.
5. The State of Maharashtra,
Through its Secretary,
Department of Revenue and Forests,
Mantralaya, Mumbai-32.

6. Barkhat Khan Amirullaha Khan,
Aged about 41 years,
Occ-Service,
R/o Silona, At Post-Silona,
Tq. Pusad, District-Yavatmal.

Respondents

Shri R.S.Kothari, the Ld. Advocate for the applicant.
Shri P.N. Warjekar, the Ld. P.O. for the respondents 1 to 5.
Shri N.S. Autkar, the Ld. counsel for respondent No.6.

Coram:-Shri J.D. Kulkarni, Vice-Chairman (J)
and
Shri Shree Bhagwan, Member (A)

JUDGMENT

(Delivered on this 23rd day of July 2018.)

Per:-Vice-Chairman (J)

Heard Shri R.S. Kothari, the learned counsel for the applicant, Shri P.N. Warjekar, the learned P.O. for the respondent Nos. 1 to 5 and Shri N.S. Autkar, the Ld. counsel for respondent No.6.

2. The applicant has challenged the impugned orders dated 6.9.2014 and 29.8.2016 passed by respondent Nos. 2 and 1 respectively. Vide order dated 6.9.2014, he was reverted to the post of Forest Guard from the post of Forester on the ground that he has acquired requisite qualification and degree of Sahitya Sudhakar

examination, was not equivalent to graduation. Against the said order passed by respondent No.2, the applicant preferred an appeal before respondent No.1 and the respondent No.1 vide order dated 29.8.2016 was pleased to dismiss the order, making the following observations:-

“मर्यादित विभागीय स्पर्धा परीक्षेद्वारे वनरक्षक पदावरून वनपाल पदावर पदोन्नतीसाठी संविधिक विद्यापीठाची पदवी किंवा शासनाने त्यास समकक्ष म्हणून घोषित केलेली अन्य कोणतीही अर्हता, अशी अर्हता निश्चित केलेली आहे. मुंबई हिंदी विद्यापीठाचे समकक्षतेबाबत शासन, उच्च व तंत्र शिक्षण विभाग निर्णय क्र. समक १०९९ /१३४/मशी-४ दिनांक १४.६.१९९९, समक्रमांक ०५/०४/२००३ व शासन निर्णय क्र. समक २००७/ (२६/०७)/मशी-६ दिनांक २८.२.२००७, अन्वये सूचना केल्या आहेत. शासन, उच्च व तंत्र शिक्षण विभाग निर्णय क्र. समक १०९९ /१३४/मशी-४ दिनांक १४.६.१९९९ मध्ये परिच्छेद ३ मध्ये नमूद अटीमध्ये असे नमूद आहे कि, ऐच्छिक हिंदी संस्थांच्या परीक्षांना दिलेली मान्यता ही समकक्ष म्हणून नमूद केलेल्या परीक्षेसाठी विहित केलेल्या हिंदीच्या दर्जा पुरतीच मर्यादित असेल, संपूर्ण पदवी परीक्षेच्या बरोबर त्यांना मान्यता मिळणार नाही, तसेच सदर मान्यता फक्त दुय्यम शाळातील हिंदी शिक्षकांच्या जागेवर नेमणूक करतेवेळी विचारात घेतली जावी.”

3. This Tribunal vide order dated 19.4.2017 was pleased to allow the O.A. in terms of prayer clause 9 (i) and (ii). Against the said judgment, the State preferred Writ Petition No.

2884/2017 before the Hon'ble High Court at Nagpur Bench, Nagpur. The Hon'ble High Court was pleased to remand the matter to this Tribunal to decide the application afresh, since the respondent No.6 Barkhat Khan Amirullah Khan was not added as party, since he was aggrieved person.

4. In view of directions of the Hon'ble High Court, the applicant joined respondent No.6 as party and the matter is being heard on merits.

5. Admittedly, the applicant was appointed as Forest Guard vide order dated 20.2.2006. On 12.5.2014, the respondent No.1 issued communication in respect of entrance examination for promotion of Forest Guard to the post of Forester. The applicant was having requisite qualification i.e. a degree of Sahita Sudhakar (B.A.Hindi) which was equivalent to the degree of B.A., was allowed to appear for examination. The applicant successfully passed the examination for promotion and was accordingly promoted to the post of Forester vide order dated 2.7.2014. He joined the said post on 7.7.2014. However, on 6.9.2014, the respondent No.2 passed an order whereby it was stated that the applicant does not possess relevant qualification for promotion as a degree from Mumbai Hindu University for the course, "Sahita Sudhakar (B.A. Hindi) level is not

equivalent to B.A. degree”. The applicant was, therefore, reverted to the post of Forest Guard.

6. The respondent Nos. 1 to 3 and 5 have resisted the claim. It is stated that the degree possessed by the applicant is not equivalent to that of B.A. It is further stated that vide G.R. dated 17.1.2014 of Revenue and Forest Department of Govt. of Maharashtra, the Government has decided to constitute a Committee under the chairmanship of the Additional Principal Chief Conservator of Forests (Administration, Subordinate cadre), Nagpur to decide the policy decision regarding conducting of examination for recruitment to the post of Foresters from the post of Forest Guards. It is admitted that the applicant was initially promoted. It is further stated that the Sahita Sudhakar is not declared as equivalent to B.A. degree. The Government Resolutions in the Department of Higher and Technical Education dated 18.6.1999, 5.4.2003 and 28.2.2007 are relevant and, therefore, applicant’s claim is not proper. It is further stated that the relevant para No.3 of the G.R. dated 14.8.1999 is relevant and it makes clear that the degree of Sahita Sudhakar is not equivalent to that of B.A. degree. It is stated in para No.8 thus:-

“Relevant para of Part 3 of the G.R. dated 14.7.1999 is quoted as under:

“३. विवरणपत्र “अ” मध्ये दर्शविलेली समकक्षता ही खालील अटीवर राहिल.

अ) ऐस्छिक हिंदी संस्थांच्या परीक्षांना दिलेली मान्यता ही समकक्ष म्हणून नमूद केलेल्या परीक्षेसाठी विहित केलेल्या हिंदीच्या दर्जा पुरतीच मर्यादित असेल. संपूर्ण पदवी परीक्षेच्या बरोबर त्यांना मान्यता मिळणार नाही.

ब) ही मान्यता फक्त दुय्यम शाळाकरिता हिंदी शिक्षकांच्या जागेवर नेमणूक करतेवेळी विचारात घेतली जावी.”

From the above provision, It is clear that the equivalence of Sahitya Sudhakar is limited to Hindi subject only. It is not equivalent to whole degree examination. It is only equivalent to appointments of Hindi teachers s per the above G.R. dated 14th June 1999.”

7. Admittedly, the applicant is not a regular graduate from the University and his degree is alleged to be equivalent to that of B.A. degree. The applicant has placed on record the G.R. dated 28.2.2007 at page Nos.28 and 29 whereby it is stated that the degree of Sahitya Sudhakar of Mumbai Hindi University is equivalent to B.A. degree. In the said G.R., there is a reference to the parent G.R. dated 14.6.1999. The said G.R. is also placed on record and

relevant para No.3 of the said G.R. has already been reproduced as above. The said clause clearly shows that the degree in Sahitya Sudhakar is equivalent to graduate in Hindi, but not for any graduation course. This issue has been decided by the Hon'ble High Court of Bombay, Bench at Nagpur in the case of **Pravin V/s Vice-Chairman and Managing Director, Maharashtra State Road Development Corporation, Central office, reported in (2017) 2 Mh.L.J. 860 and in case of Vijay Rai V/s Maharashtra State Road Development Corporation, reported in (2014) 1 CLR 348.** The Hon'ble High Court has observed in the latter judgment as under:-

“Perusal of G.R. dated 14.6.1999, more particularly Clause 3 (A) thereof shows that the equivalence granted is only for the purposes of subject Hindi and it has been expressly added that it is not equivalent to entire graduate examination. It is also stated that this equivalence should be accepted while appointing the incumbent on the post of Hindi teachers. It is not necessary for this Court to go into this Resolution in more details. The petitioner before this Court has applied to the respondent / Maharashtra State Road Transport Corporation, Nagpur for job in Clerical cadre. The respondent rightly did into consider his qualification i.e. “Sahitya Sudhakar” as equivalent to the B.A .degree issued by any statutory University.

No case is, therefore, made out. The petition is rejected.”

8. From the aforesaid observation, it will be clear that the case of the applicant has been covered by the judgment delivered by the Hon'ble High Court referred to above and degree acquired by the applicant in Bombay Hindi University in Sahitya Sudhakar cannot be, therefore, equated with that of graduation. The respondents have, therefore, rightly reverted the applicant to the post of Forest Guard vide impugned order.

9. The learned counsel for the applicant submits that no opportunity was given to the applicant before issuance of reversion order. This submission, however, cannot hold much water, as admittedly; after issuance of impugned order, the applicant got an opportunity to prefer an appeal before the competent authority and it is not the case of the applicant that he was not given an opportunity of being heard by the appellate authority. If the degree possessed by the applicant is not equivalent to that of B.A. as required as per rules, the applicant cannot insist that he shall be continued on the promoted post.

10. In view of discussion in foregoing paras, we proceed to pass the following order:-

ORDER

The O.A. is dismissed with no order as to costs.

(Shree Bhagwan)
Member (A)

(J.D.Kulkarni)
Vice-Chairman(J)

Dt. 23rd July 2018.

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