

Smt. Vidya K. & Ors.

v.

State of Karnataka & Ors.

(Civil Appeal No. 2899-2907 of 2024)

22 February 2024

[Pamidighantam Sri Narasimha,* and Aravind Kumar, JJ.]

Issue for Consideration

Whether a notification for filling up 18 posts of lecturers of Home Science in First Grade College run by State of Karnataka is liable to be quashed for not providing the breakup of the 'subjects' within Home Science.

Headnotes

Karnataka Education Department Service (Department of Collegiate Education) (Recruitment) Rules, 1964, and the Karnataka Education Department Service (Department of Collegiate Education) (Special Recruitment) Rules, 1993 – Recruitment – Notification inviting application for the posts of lecturers of Home Science – Respondent no. 8 approached the Tribunal seeking quashing of the notification on the ground that the breakup of the specialised subjects within Home Science are not specified in the notification – The Tribunal quashed the notification on the ground that specifying the subject categories is necessary for advertising the vacant posts – High Court confirmed the order of the Tribunal – Propriety:

Held: The advertisement dated 24.12.2007 refers to the relevant Rules, and in fact, specifies all the requirements such as eligibility criteria, selection methods, educational qualifications, age limit etc. – There is no dispute about the fact that the recruitment *inter alia* is to the post of a lecturer in an undergraduate program in Government First Grade Colleges – In fact, Rule 3 of the 1993 Rules provides qualifications which concerns appointment to the post of lecturers in undergraduate programs – The reason for emphasising the Rule position is to indicate that these lecturers, upon appointment, would be teaching undergraduate students in the Home Science department – The qualification is therefore, confined to, a postgraduation degree in Home Science – As long as a candidate holds a master's degree in Home Science, he/she

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will be qualified for applying to the post – It does not matter in which speciality within Home Science the master’s degree is obtained – Appointments to these posts are in the nature of ‘status’, which means that the service and its conditions can be unilaterally changed by the amendment of the Rules – The first duty of the Tribunal is to verify and examine the claims made by a party in the context of the Rule that governs the field – If the Rule does not prescribe a subject-wise speciality, there is no justification for the Tribunal or the High Court to examine the propriety, or for that matter, the beneficial effect of the rule – Thus, the High Court committed an error in not focussing on what the Rule provides for and whether the advertisement is in consonance with the Rule – If the High Court had confined itself to the basic features of judicial review, it would have avoided committing the error that it did. [Paras 8, 9, 10, 12, 17]

Jurisprudence – Service Jurisprudence – Importance of Rules:

Held: Service jurisprudence must begin and end with rules that govern the process of qualification, recruitment, selection, appointment and conditions of service. [Para 12]

List of Acts

Karnataka Education Department Service (Department of Collegiate Education) (Recruitment) Rules, 1964; Karnataka Education Department Service (Department of Collegiate Education) (Special Recruitment) Rules, 1993.

List of Keywords

Service Law; Recruitment; Appointment to the post of lecturers; Subject categories; Beneficial effect of the rule; Consonance of advertisement with Rules.

Case Arising From

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2899-2907 of 2024

From the Judgment and Order dated 28.03.2013 of the High Court of Karnataka at Bengaluru in CMWP Nos. 19495, 19496, 19497, 19498, 19499, 19500, 19501, 19502 and 19503 of 2009

With

Civil Appeal Nos. 2936-2954, 2908-2916, 2917-2935 and 2955-2963 of 2024

Smt. Vidya K. & Ors. v. State of Karnataka & Ors.**Appearances for Parties**

Aman Panwar, A.A.G., V. Lakshminarayana, Sr. Adv., Dinesh Kumar Garg, Pratham Narendrakumar, Dhananjay Garg, Abhishek Garg, Sparsha Shetty, Ishaan Tiwari, R.P. Bansal, Shekhar G Devasa, Manish Tiwari, Ms. Thashmitha Muthanna, Shashi Bhushan Nagar, Vishwanath Chaturvedi, M/S. Devasa & Co., G.V.Chandrashekar, Ms. Anjana Chandrashekar, Anup Jain, Ms. K. V. Bharathi Upadhyaya, Arjun Harkauli, Bimlesh Kumar Singh, Rajeev Kumar Gupta, Kanwal Chaudhary, Ms. Niharika, Santosh Kumar Yadav, Neeraj Agarwal, V. N. Raghupathy, Manendra Pal Gupta, Shivam Singh Baghel, Anil Jaryal Thakur, K. K. Mani, Phatick Chandra Das, Advs. for the appearing Parties.

Judgment / Order of the Supreme Court**Judgment****Pamidighantam Sri Narasimha, J.**

1. Leave Granted.
2. The short question arising for our consideration is whether a notification for filling up 18 posts of lecturers of Home Science in First Grade College run by State of Karnataka is liable to be quashed for not providing the breakup of the 'subjects' within Home Science. The Karnataka Administrative Tribunal quashed the notification on the ground that specifying the subject categories is necessary for advertising the vacant posts¹. Writ Petitions² filed by the Karnataka Public Service Commission as well as the successful candidates were dismissed by the High Court confirming the order of the Tribunal. Thus, the present appeal.
3. Having examined the rules and regulations which govern the process of recruitment, we found no difficulty in arriving at the conclusion that the requirement, as assumed by the Tribunal and the High Court, is not a mandate of the recruitment Rules. Even otherwise, the Tribunal and the High Court have erroneously based their

¹ Order dated 12.06.2009 passed in Application No. 1002/2008 and Application No. 2794/2008 by the Karnataka Administrative Tribunal, Bangalore.

² Judgment dated 28.03.2013 passed in W.P. Nos. 19495-503/2009 and W.P. Nos. 20289-20297/2009 connected with W.P. No. 21474/2009 (S-KAT).

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conclusions on policy considerations relating to how such a breakup would be beneficial to the candidates. For the reasons to follow, we have allowed the appeals, set-aside the judgments and upheld the recruitment process. Consequently, appointments made on the basis of the advertisement are affirmed.

4. The short facts leading to the present appeal are as follows. The Karnataka Public Service Commission (hereinafter 'KPSC') issued a notification on 24.12.2007 for filling up approximately 2500 posts of lecturers in the Government First Grade Colleges. Of the said posts, we are concerned with the recruitment to 18 posts in the department of Home Science. Following the advertisement, the appellants in the lead matter and two other connected matters, having the required qualification, were selected to the post of Home Science lecturer on 23.09.2008. In the meanwhile, respondent no. 8 approached the Tribunal seeking quashing of the notification by filing an Application on the ground that the breakup of the specialised subjects within Home Science are not specified in the notification. There was no interim order passed by the Tribunal, but the recruitment was made subject to the outcome of the Application.
5. The Application was finally taken up for hearing and the Tribunal by its order dated 12.06.2009 allowed the same and quashed the advertisement dated 24.12.2007. The Tribunal held that – (i) Home Science is not a subject, but a course which comprises of different subjects; (ii) in the past, KPSC had released notifications specifying vacancies against each specialisation, and appointments were also made after notifying vacancies against each specialisation; and (iii) if posts are not filled up subject-wise, and a lecturer possessing degree in Home Science in a particular subject is made to teach students in another subject, the education of the students would suffer.
6. Questioning the legality and validity of the Tribunal's decision, the appellants, who were successfully appointed candidates and KPSC filed Writ Petitions before the High Court. By the order impugned herein, the High Court dismissed the said Petitions. The reasoning of the High Court is that – (i) though the notification dated 24.12.2007 specifies subjects within the field of Arts and Science, for Home Science, no subjects or specialisations were mentioned; (ii) the Karnataka Education Department Service (Department of Collegiate

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Education) (Special Recruitment) Rules, 1993, require that the vacancy must be specified subject wise which was not done for Home Science; and (iii) if any student wants to take up specialised subjects in his masters' degree, he is required to have studied that subject, and therefore providing the breakup of subjects within Home Science is necessary.

7. The appeals before us are by the appointed candidates, the State of Karnataka and the KPSC. We have heard all the counsels for the appellants and the respondents.
8. The issue as to whether the notification calling for applications for recruitment to the 18 posts of lecturers in the department of Home Science is illegal for not providing the subject wise specified categories, would depend upon the Rules governing the recruitment process, which are the Karnataka Education Department Service (Department of Collegiate Education) (Recruitment) Rules, 1964, and the Karnataka Education Department Service (Department of Collegiate Education) (Special Recruitment) Rules, 1993. Rules 3 and 4 of the 1993 Rules provide as follows: -

“3. Qualification and Age - No person shall be eligible for recruitment under these rules unless he, has –

(a) (i) Obtained a Master’s Degree in the relevant subject with at least 55 per cent marks or its equivalent grade;

(ii) been, declared successful in the National Education Test”, provided further that candidates possessing Ph.D/M. Phil. are exempted from appearing for NET.

(b) ...

4. Notification of vacancies - Appointing Authority shall notify the vacancies under each subject to the Karnataka Public Service Commission which shall make the selection in accordance with these rules.”

9. The advertisement dated 24.12.2007 refers to the relevant Rules, and in fact, specifies all the requirements such as eligibility criteria, selection methods, educational qualifications, age limit etc. Under the educational qualification, the notification, which is in consonance with Rule 3 stated above, specifies as under: -

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“1. Must be a holder of a Master’s Degree in the concerned subject with minimum of fifty five percent of marks. Provided that in the respect of Scheduled Caste and Scheduled Tribes candidates the minimum marks shall be fifty percent.

2. Must have passed National Eligibility test conducted by the U.G.C. or C.S.I.R of SLET conducted by the State Government or any authority accredited by the U.G.C.”

10. There is no dispute about the fact that the recruitment *inter alia* is to the post of a lecturer in an undergraduate program in Government First Grade Colleges. That, it is a lecturer post, is also evident from the pay scale of Rs. 8000-13500 that it carries. In fact, Rule 3 of the 1993 Rules provides qualifications which concerns appointment to the post of lecturers in undergraduate programs. The reason for emphasising the Rule position is to indicate that these lecturers, upon appointment, would be teaching undergraduate students in the Home Science department. The qualification is therefore, confined to, a post-graduation degree in Home Science. As long as a candidate holds a master’s degree in Home Science, he/she will be qualified for applying to the post. It does not matter in which speciality within Home Science the master’s degree is obtained.

11. We may conclude this issue by referring to a statement made by the University Grants Commission (hereinafter ‘UGC’) in the affidavit which is to the following effect: -

“12. That the present Special Leave Petition pertains to the issue as to “whether the post of lecturer in Home Science is required to be classified subject-wise or not”.

13. In this regard, it is already submitted on behalf of UGC that there is no separate subject wise provision for the post of lecturers Home Science.”

12. Service jurisprudence must begin and end with rules that govern the process of qualification, recruitment, selection, appointment and conditions of service. Appointments to these posts are in the nature of ‘status’, which means that the service and its conditions can be unilaterally changed by the amendment of the Rules. The first duty of the Tribunal is to verify and examine the claims made by a party in the context of the Rule that governs the field. If the Rule does

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not prescribe a subject-wise speciality, there is no justification for the Tribunal or the High Court to examine the propriety, or for that matter, the beneficial effect of the rule.

13. The reasoning adopted by the High Court is as follows:

“14. The material on record discloses that all persons who have basic degree in Science is not eligible for being admitted to M.Sc. in Home Science. If any student wants to take up specialized subject, he also should have studied that subject as a subject in the basic degree. Under these circumstances, though the Government had asked the KPSC to recruit 18 Lecturers in Home Science, the KPSC being specialized Agency should have known that while inviting applications, mentioning of mere Home Science would not be sufficient. In fact, the Rules on which reliance is placed categorically states that the candidate should have obtained a Master Degree in the ‘relevant subject’ with at least 55% marks or its equivalent grade and the Amended Rule (4) makes it very clear that the Appointing Authority shall notify the vacancies under ‘each subject’ to the KPSC which shall make selection in accordance with these Rules. Home Science is not a subject. Home Science is a stream or genesis. In that view of the matter, the notification calling for applications in Home Science is vague. Only the specialized subject has to be mentioned as they have mentioned in the case of Arts, Science and Commerce. The candidate possessing M.Sc. in Home Science with specialized subject is in disadvantageous position to apply as against the said vacancies. In their anxiety, if the applicant had applied for the post of Lecturer in Home Science, that cannot be held against her. The State and the KPSC should act in accordance with law.”

14. It does not require detailed reasoning to find the error in the judgment of the High Court. The fact that an undergraduate student would be required to choose a specialisation when he takes up a PG program has no bearing on the qualification of the lecturer teaching the undergraduate students. Further, the assumption of the High Court that Home Science is not a subject, instead it is a stream, or

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a genesis has no application to the recruitment of lecturers for an undergraduate program. For under-graduation, Home Science in itself is the subject. In fact, UGC also considers Home Science as a subject, with subject code no. 12, as per the latest information bulletin issued by it towards National Eligibility Test conducted in December, 2023. To teach undergraduates, the qualification prescribed is simply a post-graduation degree in the subject of Home Science. We repeat, it does not matter in which subject of Home Science that the post-graduation is obtained.

15. The other reasoning given by the High Court is that on an earlier occasion, the KPSC, while recruiting for the post of probationary officers in the Dept. of Woman & Child Welfare, had mentioned the qualification as Master's Degree in Social Works or Home Science *with a specialization in Child Development or Nutrition*. Even this reasoning is misplaced because this advertisement was for recruitment to an executive post. While recruiting a person as a probationary officer in the Dept. of Woman & Child Welfare, the employer is certainly entitled to indicate the specialisation that is expected. This has nothing to do with advertisement for recruitment for the post of a lecturer.
16. Till date, the lecturers of Home Science in undergraduate program run by the Government First Grade Colleges have been treated as one cadre and recruitment to the posts were advertised as such. If one has to follow the logic adopted by the High Court, then the entire notification will collapse as the subjects of History, Economics, Political Science, Sociology etc. are also mentioned without the so-called specialisations and they must be set aside by the same logic. For example, History has its specialised subjects in post-graduation such as Ancient History, Archaeology, Epigraphy, Modern Indian History, World History, European History, South-east Asian History, West Asian History etc. The simple answer is that for under graduation, History is a subject in itself.
17. We conclude by holding that the High Court committed an error in not focussing on what the Rule provides for and whether the advertisement is in consonance with the Rule. If the High Court had confined itself to the basic features of judicial review, it would have avoided committing the error that it did.

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18. For the reasons stated above, we allow the appeals and set aside the judgement of the High Court of Karnataka at Bangalore in W.P. Nos. 19495-19503/2009, W.P. Nos. 20289-20297/2009 connected with W.P. No. 21474/2009 (S-KAT) dated 28.03.2013 and the order dated 12.06.2009 passed in Application No. 1002/2008 and Application No. 2794/2008 by the Karnataka Administrative Tribunal, Bangalore. Pending applications, if any, stand disposed of.
19. No order as to costs.

Headnotes prepared by: Ankit Gyan

Result of the case:
Appeals allowed.