DR. B.L. ASAWA

v.

STATE OF RAJASTHAN & ORS.

March 5, 1982

[A.D. KOSHAL, V. BALAKRISHNA ERADI AND R.B. MISRA, JJ.]

Educational qualifications—Post-graduate qualification in medicine granted by a University established under a statute—Qualification recognised by the Medical Council—Recognition or declaration of equivalence by every University in the country—Whether necessary.

The qualifications prescribed for the post of lecturer in Forensic Medicine under the Rajasthan Medical Service were (i) a basic university degree or equivalent qualification entered in the schedules to the Indian Medical Council Act 1956; (ii) Registration under the State Central Medical Registration Act; (iii) Post-Graduate qualification in the concerned subject and (iv) two years experience of medico-legal work.

The appellant was the holder of a M.B.B.S. degree from the Rajasthan University which was a qualification entered the first schedule to the Indian Medical Council Act. He was registered under the Medical Registration Act. He possessed a post-graduate degree in Forensic Medicine from the University of Bihar.

The respondent's application for the post of lecturer in Forensic Medicine was rejected by the State Public Service Commission on the ground that the post-graduate degree in Forensic Medicine possessed by him was not one awarded by the University of Rajasthan and that the degree which he possessed had also not been recognised by the University of Rajasthan.

A single Judge of the High Court allowed the appellant's writ petition impugning the order of the State Public Service Commission.

On appeal by the State a Division Bench of the High Court held that the post-graduate degree in Forensic Medicine which the appellant possessed could not be treated as a valid qualification for recruitment to the post of lecturer because, firstly, it was not a degree from the University of Rajasthan and secondly, neither had the Univeristy of Rajasthan recognised it nor had the University declared it as a qualification equivalent to the post-graduate degree in Forensic Medicine.

Allowing the appeal,

HELD : 1. A post-graduate medical degree granted by a university duly established by statute in this country and which had been recognised by the Indian Medical Council by inclusion in the schedule of the Medical Council Act has *ipso facto* to be regarded, accepted and treated as valid throughout the country. In the absence of any express provision to the contrary, such a degree does not require to be specifically recognised by other universities in India before it can be accepted as a valid qualification for appointment in any post in a State. [450 F-G]

In the instant case the University of Bihar was duly established by statute. It is fully competent to conduct examination and award degrees the degree of Doctor of Medicine (Forensic Medicine) of the University of Bihar is included in the schedule to the Indian Medical Council Act, 1956 as a degree recognised by the Medical Indian Council, the peramount professional body set up by statute with authority to recognise medical qualifications granted by any university or medical institution in India. [450 D-E]

2. There can be declaration of equivalence only as between a degree etc. awarded by the concerned university and a qualification obtained from a body different from the concerned university. When the University of Rajasthan does not conduct any examination for the award of the degree of Doctor of Medicine (Forensic Medicine) there cannot be any question of declaration of 'equivalence' in respect of such a degree awarded by any university. [451 B-C]

3. In the case of a post-graduate degree in the concerned subject awarded by a statutory Indian University no recognition or declaration of equivalence by any other university is called for. This is all the more so in the case of a medical degree awarded by a statutory Indian University and which has been specifically recognised by the Indian Medical Council. [451 D-E]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 303 of 1976.

Appeal by special leave from the Judgment and order dated the 30th October, 1974 of the Rajasthan High Court in D.B. Civil Special Appeal No. 247 of 1974.

Y.S. Chilale, Mrs. Sadhana Ramachandran & Parveen Kumar for the Appellant.

Badri Das Sharma for the Respondents Nos. 1 & 2.

The Judgment of the Court was delivered by

BALAKRISHNA ERADI, J. This appeal by special leave arises out of a writ petition filed by the appellant herein in the High Court of Rajasthan, challenging the legality of the action of the Rajasthan Public Service Commission in issuing of the appellant the Communication—Annexure IV—dated July 21, 1973, stating that the

A appellant was not eligible for being considered for recruitment to the post of Lecturer in Forensic Medicine in the Government Medical Colleges in the state since he lacked the necessary academic qualifications specified in the advertisement and that consequently, the application of the appellant stood rejected. There were also other incidental prayers in the writ petition for the issuance of an B appropriate writ or direction to the Public Service Commission to refrain from finalising the selection without considering the case of the appellant, and for a direction being issued to the State Government of Rajasthan not to accept the recommendations of the Public Service Commission in making appointments to the post of Lecturer in Forensic Medicine to Medical Colleges in Rajasthan in case the C appellant was not called for interview along with the other candidates.

A learned Single Judge of the High Court allowed the Writ petition holding that the Public Service Commission had acted illegally in treating the appellant as not possessing the requisite D academic qualifications and in rejecting his candidature for the post of Lecturer in Forensic Medicine on the said ground. The State of Rajasthan and the Rajasthan Public Service Commission carried the matter in appeal before a Division Bench of the High Court. That appeal was allowed by a Division Bench by its judgment dated October 30, 1974, whereby the order passed by the learned Single E Judge was set aside and the writ petition filed by the appellant was dismissed. Aggrieved by the said decision, the appellant has preferred this appeal after obtaining special leave from this Court.

The appellant secured the M.B.B.S. Degree from the Univer- F sity of Rajasthan in the year 1954 and after undergoing housemanship for one year, he was substantively appointed as Civil Assistant Surgeon in the Rajasthan State Medical Service with effect from May 26, 1956. In 1962, the Rajasthan Medical Service was bifurcated into two branches, namely, (1) The Rajasthan Medical Service and (2) The Rajasthan Medical Service (Collegiate Branch). Sepa- G rate service rules known as the Rajasthan Medical Service (Collegiate Branch) Rules, 1962 (hereinafter called the Rules) were framed for the Collegiate branch and all appointments of teaching staff in the Government Medical Colleges in Rajasthan were thereafter governed by the said Rules. Under the provisions of the Rules, H the post of Lecturer is to be filled up only by direct recruitment. It is laid down in Chapter IV of the Rules which prescribes the procedure for direct recruitment that the appointments are to be

made on the basis of selection by the State Public Service Commission. Rule 12 lays down that "the candidate for direct recruitment to the post specified in Parts A, B and C of the Schedule shall possess such academic and technical qualifications and experience as is laid down, from time to time, by the Rajasthan University for the teaching staff in Medical Colleges". The post of Lecturers is included in Part C of the schedule to the Rules. Hence, for ascertaining the qualifications required for the post of Lecturer under the Rules one has to refer to the Rules relating to technical qualifications and experience laid down by the Rajasthan University for the teaching staff in Medical Colleges.

Clause (vii) of Ordinance No. 65 occurring in Chapter XX of the Handbook of the University of Rajasthan, Part II, Vol. I, is the relevant provision wherein the University of Rajasthan has prescribed the academic and technical qualifications and experience required for eligibility for appointment as teachers in Medical Colleges. That clause is in the following terms :

> "1. All teachers must possess a basic University or equivalent qualification entered in Schedules to the Indian Medical Council Act 1956, except in the non-clinical departments of Antomy, Physiology, Biochemistry, Pharmacology, Microbiology where non-medical teachers, to the extent of 30% of the total posts of the department may be appointed to posts other than that of the Director or Head of the Department, who must necessarily hold a recognised medical qualification.
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> 2. Medical men must be registered under the State Central Medical Registration Act and non-medical persons must be recognised as teachers with the University before appointments are made permanent.
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> 3. All the teachers in Medical Colleges except Registrars and Demonstrators must possess the requisite post-graduate qualification in their respective subjects.
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> 4. 50% of the time spent in recognised research under the Indian Council of Medical Research or a University or a Medical College, after obtaining the requisite Post-graduate qualification be counted towards teaching experience for the post of Lecturer in the same or in allied subject

provided that 50% of the teaching experience shall be the regular teaching experience.

5. Equivalent qualification referred to above and in the recommendations below shall be determined by the University of Rajasthan.

6. In case of specialities under Medicine and Surgery the qualifications and experience should also be as scheduled below but in case the post has been advertised and suitable candidates are not available the qualifications can be reladed."

This is followed by a tabular statement headed 'Requirements of Special Academic Qualifications and Teaching Experience'. Column 1 of this table deals with the posts, Column 2 lays down the academic qualifications and Column 3 is about Teaching Experience. The table has a number of sub-headings according to the various specialities. The speciality of Forensic Medicine is given at page 168 of the Handbook (1971 Edition). The relevant provision regarding "Lecturer in Forensic Medicine" is as follows :

"(d) Assistant Professor/ Lecturer	M.D. (Path.), M.D. (Forensic Medicine), Speciality Board of Pathology (USA), M.D./M.R.C.P./ F.R.C.P. (with Diploma D.F.M.), M.R.C.P. (with Forensic Medicine as Special Subject) or equivalent qualification or Post-graduate degree or equivalent qualification in Medicine or Surgery."	Two years of Medico-Legal work.

On March 3, 1972, the Rajasthan Public Service Commission (for short, the Commission) issued advertisements inviting appli-

cations for the recruitment of two Lecturers in Forensic Medicine for Medical Colleges, Medical & Public Health Department in accordance with the Rules. A

The appellant had, by then, obtained the M.D. Degree in Forensic Medicine from the University of Bihar, Muzaffarpur in 1970 and had been functioning as Lecturer in Forensic Medicine in one of the Government Medical Colleges in Rajasthan on a temporary and *ad hoc* basis from December 31, 1970 on wards. B

In response to the aforesaid advertisement published by the Commission, the appellant applied for appointment to one of the two posts. However, by the impugned letter (Annexure IV) dated July 21, 1973, issued by the Secretary of the Commission, the appellant was informed that his application for the post of Lecturer in Forensic Medicine was rejected since he did not possess the necessary academic qualification. A representation made by the appellant to the Public Service Commission for reconsideration of the matter did not meet with any favourable response and hence the appellant approached the High Court by filing the writ petition under Article 226 of the Constitution out of which this appeal has arisen. During the pendency of the writ petition, the Commission conducted the interview of the remaining candidates and selected respondents Nos. 3 and 4 for appointment to the two posts and on the basis of the said selection the State Government appointed respondents 3 and 4 as lecturers. The appellant thereupon amended the writ petition by incorporating a further prayer that the High Court should issue an appropriate writ or direction cancelling the interview and selection conducted by the Commission as well as the consequential appointments given by the State Government to respondents 3 and 4 as Lecturers in Forensic Medicine. C D E F

The short point to be considered is whether the Commission was right in law in excluding the appellant from consideration on the ground that he did not possess the academic qualification prescribed by clause (vii) of Ordinance No. 65 of the Rajasthan University Ordinances for the post of Lecturer in Forensic Medicine. G

The qualifications prescribed for the said post by clause (vii) of Ordinance No. 65 are :

(1) A basic University (Degree ?) or equivalent qualification entered in Schedules to the Indian Medical Council Act, 1956. H

(2) Registration under the State/Central Medical Registration Act.

(3) Post-graduate qualification in the concerned subject.

(4) Two Years' experience of Medico-legal work.

The appellant is admittedly the holder of the basic Degree of M.B.B.S. from the Rajasthan University, which is a qualification entered in the First Schedule to the Indian Medical Council Act. It is also not in dispute that he is duly registered under the Medical Registration Act. The sole ground on which the aapellant was treated by the Commission as ineligible for consideration was that the Post-graduate degree in Forensic Medicine possessed by the appellant is not one awarded by the University of Rajasthan and the said Degree has also not been recognised by the University of Rajasthan as an equivalent qualification.

The University of Bihar at Muzaffarpur is one duly established by statute and it is fully competent to conduct examinations and award degrees. The Degree of Doctor of Medicine (Forensic Medicine)—M.D. (Forensic Medicine)—of the University of Bihar is included in the Schedule to the Indian Medical Council Act, 1956 as a degree fully recognised by the Indian Medical Council which is the paramount professional body set up by statute with authority to recognise the medical qualifications granted by any University or Medical Institution in India. A Post-graduate Medical Degree granted by a University duly established by statute in this country and which has also been recognised by the Indian Medical Council by inclusion to the Schedule of the Medical Council Act has *ipso facto* to be regarded, accepted and treated as valid throughout our country. In the absence of any express provision to the contrary, such a degree does not require to be specifically recognised by other Universities in any State in India before it can be accepted as a valid qualification for the purpose of appointment to any post in such a State. The Division Bench of the High Court was, in our opinion, manifestly in error in thinking that since the Post-graduate degree possessed by the appellant was not one obtained from the University of Rajasthan, it could not be treated as a valid qualication for the purpose of recruitment in question in the absence of any specific order by the University of Rajasthan recognising the said degree or declaring it as an equivalent qualification. It is common ground before us that the University of Rajasthan does not

conduct Post-graduate examinations in the subject of Forensic Medicine and it does not award the degree of M.L. (Forensic Medicine). In order that there should be scope for declaration of 'equivalence' of a qualification obtained from another body, there should be a corresponding qualification that can be earned by virtue of passing an examination or test conducted by the concerned University. There can be declaration of equivalence only as between a degree etc. awarded by the concerned University and one obtained from a body different from the concerned University. When the University of Rajasthan does not conduct any examination for the award of the degree of M.L. (Forensic Medicine), there cannot be any question of declaration of 'equivalence' in respect of such a degree awarded by any University. Unfortunately, the State Public Service Commission as well as the Division Bench of the High Court failed to notice this crucial aspect. We may also point out that the declaration of 'equivalence' referred to in Section 23A of the Rajasthan University Act as well as in clause (vii) of Ordinance No. 65 of the Rajasthan University Ordinances can only be in respect of qualifications other than basic or Post-graduate degrees awarded by other statutory Indian Universities in the concerned subjects. In the case of a Post-graduate degree in the concerned subject awarded by a statutory Indian University, no recognition or declaration of equivalence by any other University is called for. This is all the more so in the case of a medical degree—basic as well as Post-graduate—that is awarded by a statutory Indian University and which has been specifically recognised by the Indian Medical Council.

Though a contention was taken by the respondents in the High Court as well as before us that the appellant did not also satisfy the requirement regarding "two years of Medico-legal work", we do not find any force in the said plea. The certificates from the Principal and Heads of Departments of Forensic Medicine in the concerned Medical Colleges produced by the appellant in the High Court as annexures in his affidavit dated July 27, 1973 which are at pages 31 and 33 of the printed Paper Book, establish beyond doubt that the appellant had put in more than two years of Medico-legal work in Dr. S. N. Medical College and in the Dharbhanga Medical College, prior to the last date fixed by the Commission for receipt of the applications.

The conclusion that emerges from the aforesaid discussion is that the appellant was fully qualified for being considered for

A appointment to the two posts of Lecturers in Forensic Medicine advertised by the Commission on November 16, 1972, and that the Commission acted illegally in treating the appellant as not being possessed of the requisite academic qualification and excluding him from consideration on the said ground.

Accordingly, we allow this appeal, set aside the judgment of
B the Division Bench of the High Court and restore the judgment of the learned Single Judge, subject to the modification that in carrying out the directions contained in the judgment of the learned Single Judge, the Commission should treat the appellant as a fully qualified candidate in the light of the finding recorded by us that at the relevant time the appellant possessed not merely the prescribed
C academic qualification but also the requisite experience of two years' Medico-legal work. The appellant will get his costs throughout from respondents 1 and 2 in equal shares.

D P.B.R. *Appeal allowed.*