SPC Guiding Case No. 39: He Xiaoqiang v. Huazhong University of Science and Technology (Refusal to Confer Academic Degree)

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Discussed and adopted by the Judicial Committee of the Supreme People's Court; issued on December 25, 2014.

Keywords

Administrative litigation / academic degree / conferral by higher education institutions / academic autonomy

Holding

1. A higher education institution that has the right to confer academic degrees has the authority to review an applicant's application for a degree and decide whether to confer the degree. Where the applicant refuses to accept the institution's decision not to confer a degree and brings an administrative lawsuit, the people's court shall accept the case in accordance with law.

2. Where a higher education institution, in accordance with the relevant provisions of the Interim Measures for the Implementation of the Regulations of the People's Republic of China on Academic Degrees, formulates academic standards for degree conferral within the scope of academic autonomy, and makes a decision on whether to confer a degree based on such standards, the people's court shall support the decision.

Basic Facts

The plaintiff, He Xiaoqiang, was a 2003-grade undergraduate graduate majoring in communication engineering from the Wuchang Branch of Huazhong University of Science and Technology (hereinafter the "Wuchang Branch"), the third party. The Wuchang Branch is an independent public institution legal person and does not have the qualification to confer bachelor's degrees. In accordance with the relevant state provisions on the conferral of bachelor's degrees by private higher education institutions and the agreement between the parties, the defendant, Huazhong University of Science and Technology, agreed to confer bachelor's degrees on undergraduate graduates of the Wuchang Branch who met the conditions for a bachelor's degree, and the annex to the agreement set out the Implementation Rules of the Wuchang Branch of Huazhong University of Science and Technology for Conferring Bachelor's Degrees on Undergraduate Graduates. Article 2 of the Rules provides that "undergraduate graduates with student status at our school who meet the conferral conditions in these Implementation Rules may all apply to the Academic Degree Evaluation Committee of Huazhong University of Science and Technology for conferral of a bachelor's degree"; Article 3 provides that "... those who attain the following levels and requirements and pass the review of the Academic Evaluation Committee may be conferred a bachelor's degree. ... (3) pass the National College English Test Band 4." In December 2006, Huazhong University of Science and Technology issued the Provisions on the Wuchang Branch and Wenhua College Applications for Bachelor's Degrees, providing that passing the National College Foreign Language Test Band 4 was one of the essential conditions for non-foreign-language majors to apply for a bachelor's degree.

On June 30, 2007, He Xiaoqiang obtained the Graduation Certificate of a Regular Higher Education Institution issued by the Wuchang Branch. Because he had not passed the National College English Test Band 4 during his undergraduate studies, the Wuchang Branch, in accordance with the above Implementation Rules, did not recommend him to Huazhong University of Science and Technology for a bachelor's degree. On August 26, He Xiaoqiang applied to Huazhong University of Science and Technology and the Wuchang Branch for the conferral of a bachelor's degree in engineering. On May 21, 2008, the

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Wuchang Branch gave a written reply that, because He Xiaoqiang had not passed the National College English Test Band 4 and did not meet the conferral conditions, Huazhong University of Science and Technology could not confer a bachelor's degree on him.

Judgment

On December 18, 2008, the Hongshan District People's Court of Wuhan City, Hubei Province rendered administrative judgment (2008) Hong Xing Chu Zi No. 81, dismissing the plaintiff He Xiaoqiang's litigation request that the defendant Huazhong University of Science and Technology issue him a bachelor's degree in engineering. On May 31, 2009, the Wuhan Intermediate People's Court of Hubei Province rendered administrative judgment (2009) Wu Xing Zhong Zi No. 61, dismissing the appeal and affirming the original judgment.

Reasoning

The court's effective judgment held that: the issues in dispute in this case mainly concerned whether the administrative act at issue was actionable, whether it was lawful, and the scope of judicial review.

I. The administrative act at issue was actionable. In accordance with the authorization of the Regulations of the People's Republic of China on Academic Degrees and other laws and administrative regulations, the defendant, Huazhong University of Science and Technology, had the statutory authority to review and confer bachelor's degrees of regular higher education institutions. In accordance with Paragraph 2 of Article 4 of the Interim Measures for the Implementation of the Regulations of the People's Republic of China on Academic Degrees — "for higher education institutions that do not confer bachelor's degrees, with respect to undergraduate graduates who have attained the academic level of a bachelor's degree, the department shall submit a list of names to the school, and after the school agrees, the school shall recommend them to the higher education institutions that confer bachelor's degrees in the same system or region nearby. The relevant department of the higher education institution that confers bachelor's degrees shall review and assess the undergraduate graduates recommended by the higher education institutions that do not confer bachelor's degrees, and where it finds that they conform to these Interim Measures and the relevant provisions, it may nominate them to the school's Academic Degree Evaluation Committee and include them in the list of bachelor's degree recipients" — as well as the relevant provisions of the state policies on promoting the running of private higher education institutions, Huazhong University of Science and Technology had the authority, in accordance with its agreement with the private higher education institution, to confer a bachelor's degree of a regular higher education institution on undergraduate graduates of the private higher education institution who met its own bachelor's degree conferral conditions after review.

In this case, the third party, the Wuchang Branch, was a private higher education institution that had not obtained the qualification to confer bachelor's degrees. The agreement on cooperative school running signed between that institution and Huazhong University of Science and Technology provided that the Wuchang Branch would recommend to Huazhong University of Science and Technology its undergraduate graduates who attained the academic level of a bachelor's degree, and Huazhong University of Science and Technology would review whether to confer a bachelor's degree. In accordance with the provisions of the Interim Measures for the Implementation of the Regulations of the People's Republic of China on Academic Degrees and the cooperative school running agreement between Huazhong University of Science and Technology and the Wuchang Branch, Huazhong University of Science and Technology had the statutory duty to review and decide whether to issue bachelor's degrees to the graduating undergraduate students recommended by the Wuchang Branch. He Xiaoqiang, an undergraduate graduate of the Wuchang Branch, brought an administrative lawsuit against Huazhong University of Science and Technology on the ground that it had not conferred on him a bachelor's degree in engineering within 60 days from the date of receiving the application, which conformed to the provisions of Paragraph 1 of Article 39 of the Interpretation of the Supreme People's Court on Several Issues Concerning the Implementation of the Administrative Litigation Law of the People's Republic of China. Therefore, Huazhong University of Science and Technology was a

proper defendant in this case, and where He Xiaoqiang refused to accept Huazhong University of Science and Technology's failure to confer a bachelor's degree and brought a lawsuit, the people's court should accept it in accordance with law.

II. Article 3 of the Implementation Rules of the Wuchang Branch of Huazhong University of Science and Technology for Conferring Bachelor's Degrees on Undergraduate Graduates formulated by the defendant conformed to the provisions of superior law. Article 4 of the Regulations of the People's Republic of China on Academic Degrees provides: "undergraduate graduates of higher education institutions who have achieved good results and attained the following academic level shall be conferred a bachelor's degree: (1) having a relatively good command of the basic theories, specialized knowledge, and basic skills of the relevant discipline ..." Article 25 of the Interim Measures for the Implementation of the Regulations of the People's Republic of China on Academic Degrees provides: "a degree-conferring unit may, in accordance with these Interim Measures for the Implementation, formulate its own detailed work rules for conferring degrees." These Measures grant degree-conferring units the power and duty to formulate bachelor's degree conferral standards within the scope of academic autonomy, on the premise of not violating the basic principles of conferring bachelor's degrees as provided in the Regulations of the People's Republic of China on Academic Degrees. Huazhong University of Science and Technology, within this scope of authorization, linked the National College English Test Band 4 score to the conferral of bachelor's degrees, which fell within the scope of academic autonomy. A higher education institution lawfully exercises its autonomy in teaching and sets its own specific provisions and requirements for the educational quality and academic level of the undergraduate students it cultivates, which is a refinement of the standards for conferring bachelor's degrees and does not violate the principled provisions of Article 4 of the Regulations of the People's Republic of China on Academic Degrees and Article 25 of the Interim Measures for the Implementation of the Regulations of the People's Republic of China on Academic Degrees. Therefore, He Xiaoqiang did not meet Huazhong University of Science and Technology's conditions for conferring a bachelor's degree because he had not passed the National College English Test Band 4, and the Wuchang Branch did not recommend him to apply for the conferral of a bachelor's degree; thus there was no fact of inaction by Huazhong University of Science and Technology, and He Xiaoqiang's litigation request was not supported.

III. Judicial review of the institution's act of conferring degrees is based on the principle of legality review. Each higher education institution determines its own academic level measurement standard for conferring bachelor's degrees within the scope of the statutory basic principles according to its own teaching level and actual situation, which is a specific manifestation of the principle of academic autonomy in the process of running higher education institutions. On the premise of conforming to the degree conferral conditions provided in laws and regulations, determining a higher academic standard for conferring bachelor's degrees or appropriately relaxing it should be decided by each higher education institution itself according to its own school-running philosophy, actual teaching situation, and ideal pursuit of academic level. Judicial review of bachelor's degree conferral cannot interfere with or affect the principle of academic autonomy of higher education institutions, and the scope of judicial review in administrative litigation cases of degree conferral should be based on the principle of legality review.

Relevant Legal Provisions

Article 4 and Paragraph 1 of Article 8 of the Regulations of the People's Republic of China on Academic Degrees.

Article 25 of the Interim Measures for the Implementation of the Regulations of the People's Republic of China on Academic Degrees.

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