

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

W.P.(C).No.15952 of 2014 (T)

PETITIONER(S):-

1. DILNA.B.,
DIVYA HOUSE, PERUVATTOOR P.O., KOZHIKODE-673620.
2. BENEESHA KUMARI V.P.,
VAYALILPURAYIL HOUSE, EDAKKULAM P.O., KOYILANDI,
KOZHIKODE-673306.
3. SREEVIDYA K.,
KALLIATH HOUSE, PULLYANCHERY, MUCHUKUNNU P.O.,
KOZHIKODE-673307.
4. JISHI.K.,
CHATHOTH HOUSE, KOLLAM PO, KIYILANDY
KOZHIKODE-673307.

BY ADV. SRI.SHEJI P.ABRAHAM.

RESPONDENT(S):

1. MANAGING DIRECTOR,
KERALA STATE BEVERAGES (MANUFACTURING & MARKETING)
CORPORATION LTD.,
THIRUVANANTHAPURAM.
2. KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY SECRETARY, PATTAM, THIRUVANANTHAPURAM.
3. SECRETARY,
KERALA PUBLIC SERVICE COMMISSION, PATTAM
THIRUVANANTHAPURAM.

* Addl.R4. STATE OF KERALA,
 REP. BY ITS SECRETARY, HIGHER EDUCATION DEPARTMENT,
 SECRETARIAT, THIRUVANANTHAPURAM

* ADDITIONAL 4TH RESPONDENT IS IMPEADED AS PER ORDER
DATED 15.01.2015 IN IA 485/15.

R1 BY STANDING COUNSEL SRI.C.S.AJITH PRAKASH.
R2 & R3 BY STANDING COUNSEL SRI.P.C.SASIDHARAN.
R4 BY GOVERNMENT PLEADER SMT.M.J.RAJASREE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
08-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: COPY OF THE NOTIFICATION OF THE 1ST RESPONDENT CORPORATION.
- EXT.P1a: COPY OF THE SERVICE RULES FOR THE 1ST RESPONDENT CORPORATION.
- EXT.P2: COPY OF THE CERTIFICATE ISSUED BY THE BOARD OF TECHNICAL EXAMINATIONS OF KERALA TO THE 1ST PETITIONER.
- EXT.P2a: COPY OF THE CERTIFICATE ISSUED BY THE BOARD OF TECHNICAL EXAMINATIONS OF KERALA TO THE 2ND PETITIONER.
- EXT.P2b: COPY OF THE CERTIFICATE ISSUED BY THE BOARD OF TECHNICAL EXAMINATIONS OF KERALA TO THE 3RD PETITIONER.
- EXT.P2c: COPY OF THE CERTIFICATE ISSUED BY THE BOARD OF TECHNICAL EXAMINATIONS OF KERALA TO THE 4TH PETITIONER.
- EXT.P3: COPY OF THE CURRICULUM DETAILS OF THE DIPLOMA COURSE.
- EXT.P4: COPY OF THE GOVERNMENT ORDER GORT. 464/87.H.EDN. DTD.21.2.87.
- EXT.P5: COPY OF THE SHORT LIST PUBLISHED BY THE 2ND RESPONDENT.
- EXT.P5a: COPY OF THE INTIMATION ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER.
- EXT.P5b: COPY OF THE INTIMATION ISSUED BY THE 2ND RESPONDENT TO THE 2ND PETITIONER.
- EXT.P5c: COPY OF THE INTIMATION ISSUED BY THE 2ND RESPONDENT TO THE 3RD PETITIONER.
- EXT.P5d: COPY OF THE INTIMATION ISSUED BY THE 2ND RESPONDENT TO THE 4TH PETITIONER.

- EXT.P6: COPY OF THE MAIN LIST PUBLISHED BY THE 2ND RESPONDENT.
- EXT.P7: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT.
- EXT.P8: TRUE COPY OF THE FINAL YEAR MARK LIST OF THE 1ST PETITIONER.
- EXT.P8a: TRUE COPY OF THE FINAL YEAR MARK LIST OF THE 2ND PETITIONER.
- EXT.P8b: TRUE COPY OF THE FINAL YEAR MARK LIST OF THE 3RD PETITIONER.
- EXT.P8c: TRUE COPY OF THE FINAL YEAR MARK LIST OF THE 4TH PETITIONER.
- EXT.P9: TRUE COPY OF THE GOVERNMENT ORDER DATED 12.1.07.
- EXT.P10: TRUE COPY OF THE COMMUNICATION FROM THE OFFICE OF THE 2ND RESPONDENT TO ONE OF THEIR DISTRICT OFFICERS.

RESPONDENT(S)' EXHIBITS/ANNEXURES:-

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- EXT.R1(a) TRUE EXTRACT/RELEVANT PAGE OF THE SERVICE RULES PRESCRIBING QUALIFICATION FOR THE POST OF STENOGRAPHER.
- ANNEXURE R4(a) TRUE COPY OF THE G.O.(Rt).NO.21/2003/H.EDN. DATED 01.01.2003.
- ANNEXURE R4(b) TRUE COPY OF THE G.O.(Rt).NO.464/87/H.EDN. DATED 21.02.1987.

vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.15952 of 2014-T

Dated this the 08th day of October, 2015

JUDGMENT

The petitioners project a genuine grievance before this Court, with respect to the petitioners' qualification not being considered for selection under Exhibit P1 notification.

2. Exhibit P1 notification was issued as per the Recruitment Rules of the respondent-Corporation, at Exhibit P1 (a). The post notified was Stenographer. The qualifications for the said post were as follows:

- “1. Graduation from recognized University or equivalent.
2. Typewriting English Higher (KGTE/MGTE) or equivalent.
3. Shorthand English Higher (KGTE/MGTE) or equivalent.
4. Typewriting Malayalam Lower (KGTE).
5. Shorthand Malayalam Lower (KGTE)”

The petitioners have graduation from recognized University and a Diploma in Secretarial Practice. The Diploma in Secretarial Practice is a course which was earlier conducted as Diploma in Typewriting and Shorthand, as is noticed in Exhibit P3 order of the Government in G.O.(Rt) No.1852/2006/H.Edn. Dated 06.12.2006.

3. The Government has also issued Exhibit P4 order, in which it is indicated so:

- “1. The Preliminary Diploma Examination in Shorthand and Typewriting conducted in the Govt. Commercial Institutes will be treated as equivalent to KGTE Examinations Lower Grades of Typewriting (English) and Shorthand (English).
2. The Final Diploma Examination in Shorthand and Typewriting conducted in the Govt. Commercial Institutes will be treated as equivalent to KGTE Examinations higher grades of Typewriting (English) and Shorthand (English) and also to the lower grades of Typewriting (Malayalam) and Shorthand (Malayalam)”.

The Government treated the Diploma Examinations in Shorthand and Typewriting to be equivalent to the KGTE Examinations higher grade of Typewriting (English) and Shorthand (English) and also to the lower grades of Typewriting (Malayalam) and Shorthand (Malayalam). The difficulty arose insofar as the Recruitment Rules provide for an equivalent qualification only in Typewriting (English) Higher and Shorthand (English) Higher. For Malayalam (Lower), in Typewriting and Shorthand the Recruitment Rules does not provide for any equivalent qualification.

4. The learned counsel appearing for the Public Service Commission [for brevity “PSC”] contends that the issue is no longer *res integra*, as a Full Bench of this Court in **Suma v.**

K.P.S.C. [2011(1) KLT 1 (FB)] had considered the issue and found that it is not for the PSC to recognize a different qualification from that provided in the Recruitment Rules; as an equivalent qualification. There, the selection was to the post of Junior Scientific Officer, governed by the Kerala Chemical Examiner's Laboratory Service Special Rules, 1997. The Special Rules provided for a Masters Degree with 50% marks in Chemistry or Forensic Science or Bio-Chemistry. The PSC recognised a Masters Degree in Applied Chemistry, Organic Chemistry and Inorganic Chemistry as an equivalent qualification. The rejection of the PSC hence, is proper, is the contention.

5. The learned counsel for the petitioners would rely on a Division Bench decision of this Court reported in ***Rathish J.Babu v. Public Service Commission* [ILR 2007 (4) Kerala 139]**. The Division Bench in the said case held that the Government can declare equivalency of a qualification. There can be no dispute to the said proposition. It has also been declared equivalent by the Government in Exhibit P4. But, however, here the fact remains that Exhibit P1(a) Recruitment Rules approved by the Government does not contain specification for treating an

equivalent qualification to the reckoned with respect to Malayalam Lower-Typewriting and Shorthand. If the qualification was recognised as a higher one, the PSC could have reckoned it. Though the petitioners contend that the Course is more comprehensive than KGTE; the Government has treated it only as an equivalent qualification.

6. It is also to be noticed that there was no challenge to Exhibit P1 notification or to Exhibit P1(a) Rules. The petitioners had applied under the notification and turned back to treat their qualification as an equivalent one; on their candidature being rejected by the PSC. There can be no fault found in the rejection of their claim by the PSC, going by the Full Bench decision afore-cited. The fact that the qualification of the petitioners is equivalent to that provided in the notification and the Rules cannot enure to the benefit of the petitioners for reason only of the Rules having not provided reckoning of an equivalent qualification for the specific subject afore-mentioned. Further, the list has already been published and none are impleaded herein.

7. However, the contention raised by the petitioners is genuine and since the Government has recognised the course as

equivalent, it is only proper that the 1st respondent take steps to amend the Rules and provide for an equivalent qualification in the case of Typewriting and Shorthand in Malayalam Lower or incorporate the specific qualification which the petitioners have.

The writ petition would stand dismissed; however with the above observation.

Sd/-

K.Vinod Chandran
Judge.

vku/-

[true copy]