

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1966 of 2015
IN
Civil Writ Jurisdiction Case No. 8604 of 2015**

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Atul Kumar S/o Shri Ashok kumar Mishra Resident of Mohalla Court Station Near
airport road, P.s K.Hat, Dist- Purnea

.... Appellant/s

Versus

1. The Punjab National Bank through Its Chairman, 7 Bhikhaji Cama place, New Delhi-110066
2. The Chief Manager, Punjab National Bank, Human Resource Development Division, 7 Bhikhaji Cama Place, New delhi-110066

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashok Kumar Choudhary, Advocate
Mr. Uday Pratap Singh, Advocate
Mr. Akshansh Ankit, Advocate
For the Respondent/s : Mr. Raj Nandan Prasad, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 19-07-2017

Seeking exception to an order passed by the learned Writ
Court on 4.8.2015 in CWJC No. 8604 of 2015, this appeal has been
filed under Clause 10 of the Letters Patent.

Even though the order dated 4.8.2015 passed by the
learned Writ Court is hardly of five lines but the issue involved in this
case requires consideration. The order dated 4.8.2015 reads as under:-

“Petitioner wants to approach the Institute of
Banking Personnel Selection. Let him do so. The
Court will not come in his way.



However, the claim of the petitioner with regard to his right for appointment on the basis of his qualification cannot be acceded to.

The writ application is disposed of with above observation.”

The writ petitioner-appellant herein had a bright academic career and having obtained a degree of B. Tech. (Bachelor of Technology) in Electrical and Electronics Engineering from Dr. M.G.R. Educational and Research Institute University, Maduravoyal, Chennai, applied for appointment as IT Officer (Scale-I) in the respondent-Punjab National Bank in pursuance to the advertisement issued by them. The writ petitioner-appellant applied and was issued with the Admit Card to appear in the tentative examination which was to be held between 14.02.2015 and 15.02.2015. He was found eligible based on the qualification acquired by him, appeared in the examination conducted by the Institute of Banking Personnel Selection (IBPS) and obtained more than the cut off marks prescribed for the general category, which was 104 marks and was short listed for appearing in the interview, the petitioner obtained 127 marks. The appellant appeared in the common interview again organized by the Institute of Banking Personnel Selection (IBPS) and in the final result uploaded on the website, it was declared that the appellant had been



declared successful for appointment on the post of I.T. Officer (Scale-1) having obtained 62.80 out of 100 marks and has been provisionally allotted appointment in the Punjab National Bank, respondent herein.

The appellant, according to the averments made in the writ petition, was waiting for appointment order in pursuant to the same when, all of a sudden, he received an order dated 9.5.2015 from the Chief Manager, Human Resources Development Division, Punjab National Bank indicating that the candidature of the appellant has been cancelled as the educational qualification prescribed was not found to be equivalent. The qualification prescribed by the Bank for the post in question was 4 year Engineering Degree in Computer Science/Computer application/ Information Technology/ Electronics/ Electronics & Telecommunications/ Electronics & Communication/ Electronics and Instrumentation or Post Graduate Degree. It is the case of the Bank that as the appellant is only a degree holder in electrical and electronics which is not the prescribed qualification, therefore, his candidature has been cancelled. The appellant challenged this order in the writ petition and it was his case that his qualification is identical and merely because of the nomenclature of the subject, the appellant cannot be discriminated, the writ Court having dismissed the writ petition, this appeal.

We have heard the matter in detail and while hearing the



matter on 10.5.2017, two judgments, one of the Delhi High Court in the case of Ms. Nisha Vs. Union of India and others (W.P. (C) 6100/2012 and CM No. 16465/2012 and another of the Gauhati High Court in the case of Shri Wilfred Vanlaliana & Ors. Vs. The State of Mizoram & Ors. (WP(C) No. 2 of 2012 were brought to our notice and on going through these judgments, we found that it has been held in these two cases that degrees or qualification like B.Tech. in Electronics and instrumentation or electrical and electronics Engineering are equivalent and similar qualifications and have been held to be identical in nature. Taking note of the aforesaid, we directed the Bank to consider the claim of the appellant in the backdrop of the aforesaid two judgments but, instead of considering the same in the light of the aforesaid judgments, the Bank has now come out with a new case in the counter affidavit to say that the appellant has suppressed various information in the application form submitted by him. Vide Annexure-A to the counter affidavit, it is stated that the appellant has indicated his qualification as graduation in Electronics only and has not indicated that he has degree of Engineering in Electrical and Electronics. Accordingly, the Bank has now come up with a new case which was not the original claim of the Bank when the impugned order was passed which was challenged in the writ petition. The question before us is as to whether the



qualification acquired by the appellant i.e. graduate Engineering in Electrical and Electronics and the qualification prescribed by the Bank are identical or can be treated as equivalent. This issue has been addressed clearly in favour of the appellant by the Delhi High Court. A Division Bench of the Delhi High Court from para 27 onwards vide its judgment rendered on 26th of November, 2012 in the writ petition, as detailed herein above, namely, **Ms. Nisha Vs. Union of India and others** (supra) and various other cases decided by a composite order has addressed this issue, i.e. as to whether the qualification in question are equivalent or not. In para-27 to 32 the discussions go in the following terms:

27. As regards the writ petitioners who had the degree of B.Tech. in ELECTRICAL AND ELECTRONICS, we have already noted above that the original advertisement made eligible even said degree holders till the corrigendum was published in Employment News on February 11, 2012. But, the web page of the site of the Indian Army, which we accessed in Court at the hearing held on November 22, 2012, evidenced that the corrigendum was not even put on the website. We did so in Court inasmuch as the writ petitioners informed that when they accessed the website pursuant to the advertisement dated January 20, 2012, notwithstanding they did so after February 11, 2012, the website continued display the



eligibility qualifications as originally entered. Indeed, the position is as stated by the petitioners.

28. The position which therefore emerges is that due to complete identity in the course curriculum of the degrees B.Tech. INFORMATION TECHNOLOGY and B.Tech. COMPUTER SCIENCE and the degrees B.Tech. INSTRUMENTATION AND CONTROL and B.Tech. ELECTRONIC AND INSTRUMENTATION, even the experts panel constituted by AICTE has opined equivalence and as regards B.Tech. ELECTRICAL AND ELECTRONICS and B.Tech. ELECTRICAL, though the experts have opined to the contrary, we find equivalence. The further position which emerges is that as regards males, the Indian Army treats B.Tech. ELECTRICAL AND ELECTRONIC and B.Tech. ELECTRICAL as equivalent degrees. Further position emerges that the Indian Navy and the Indian Air Force treats the two degrees as equivalent and so do all other Public Sector Undertakings. The further position which emerges is that all writ petitioners succeeded with merit, and we highlight that the young lady writ petitioners found themselves in the select list for 35 posts from amongst 11,000 candidates; we presume that the selection process was to test the knowledge in the field of ELECTRICAL ENGINEERING and the success



of the lady writ petitioners holding degree in ELECTRIC AND ELECTRONIC ENGINEERING is proof of what we have held herein above that the degree course undertaken by them has subsumed within, the degree course in ELECTRIC ENGINEERING.

29. Thus, the facts of the instant case attract the law declared by the Supreme Court in its opinion in Mohammed Sujat Ali's case (supra) justifying the arm of this Court to be extended to declare that the writ petitioners were eligible; having the requisite educational qualifications for the posts advertised and accordingly we issue a mandamus to the respondents to proceed ahead with the selection process pertaining to the writ petitioners keeping in view their merit position in the select list against the post which they had applied for.

30. We note that learned counsel for the respondents had conceded that the number of persons issued letters of appointment exceed more than three times the vacancies which were advertised and the reason is a shortage of officers in the Indian Army, and for which the young petitioners who were present in Court had drawn our attention to the newspaper report published on November 15, 2012 in the daily newspaper 'The Pioneer' that the shortage of officers in the Indian



Army is 12,000; indeed learned counsel for the respondents did not refute said position; meaning thereby that the induction of the petitioners would not adversely affect the persons who have been issued letters of appointment notwithstanding many of them being lower in the merit position to the writ petitioners.

31. We have highlighted in our interim orders as also in para 7 above that commensurate to the needs of the growing industry one finds a perceptible shift from the hithertofore regimented courses to interdisciplinary courses; having mixed and merges subjects. A large number of writ petitions are being filed on the subject of equivalence. Our experience in the instant writ petitions of seeking expert opinion first from the Association of the Indian Universities and then from the All Council for Technical Education has left us saddened and without any guidance. Accordingly we direct that a copy of this decision would be sent to the Secretary, Ministry of Human Resources Development with a direction that the Government of India would constitute a committee of experts in the field of technical education which would gather the course curriculum of all the technical degrees recognized by the UGC and would accord equivalence which would be displayed on the website of UGC, AICTE and the



Ministry of Human Resources Development

32. An affidavit would be filed by the Secretary, Ministry of Human Resources Development in WP(C) No.6100/2012 disclosing the names of the members constituting the committee of experts and the task assigned to the committee and for which purpose we direct that though WP(C) No.6100/2012 is disposed of by issuing the mandamus as above, it would be listed for directions before the Roster Bench on April 09, 2013, to ensure compliance by the Secretary, Ministry of Human Resources Development.

Similarly, the same issue was considered by the Gauhati High Court also in the case of **Shri Wilfred Vanlaliana & Ors. Vs. The State of Mizoram & Ors.** (supra) and in that case also the issue has been considered from para 17 onwards and in paras 19 and 20, the principles has been crystallized in the following manner.

19. In some of the administrative departments candidates having graduate degrees are eligible for clerical jobs. No distinction is made for the graduates in Arts, Commerce and Science stream. All such graduates are treated at par. Similarly, for being appointed as a Judicial Officer a degree in law is essential. Till date a good number of Universities are still giving LLB degrees with



three years course and some of Law Schools have started 5 years degree courses. At the same time, LLB degrees in three years course can be obtained by a person who has graduated in Arts, Commerce, Science or even a person having degree in engineering or medical science. Similarly, some candidates may have taken 5 year degree course in LLB and some others 3 year degree course. However, no distinction can be made to the candidates coming from different streams unless the Rules clearly spell out its requirement.

20. I have already referred to a letter dated 20.6.2011 issued from the office of the P & E Department to the MPSC that 13 posts of Asstt. Engineer/SDO should be divided in 5 posts for Electrical Engineering; 4 posts of Electronics Engineering and 4 posts for Mechanical Engineering course. Hence, it cannot be said that the department has no requirement of Electronic Engineers. I have already opined earlier that Electrical Engineering will include Electronics and Communication Engineering. Besides this, the appointments are to be made after a written test, which will be followed by oral interview. Hence, the MPSC is presumed to have set the question papers as per the special requirement of the department and in the oral interview also special emphasis can be given to the electrical



engineering. If a candidate can do well and is selected on his or her own merit and suitability, there is no harm if his or her degree course includes some amount of telecommunication subject. In my considered opinion, it will be an additional gain to the department to get meritorious candidates having sound knowledge of electronics engineering, with extra subjects in telecommunication, since the telecommunication has become an essential component in each and every department.

Composite reading of both the judgments of the Delhi High Court and the Gauhati High Court goes to show that the degree of Engineering, in Electrical and Electronics obtained by the appellant is equivalent to the degree in question as notified in the recruitment process and taking note of the reasons that weighed in the Delhi and Gauhati High Courts' judgments, we see no reason to take a different view. We accordingly, accept the same and hold the writ petitioner-appellant to be qualified for the appointment on the post and direct the Bank to appoint him on the post for which he has participated in the selection process forthwith and permit his joining to the Bank.

It may also be taken note that the recruiting agency, being an expert body which conducted the selection process, entertained the application submitted by the petitioner-appellant and



thereafter evaluating the qualification of the petitioner found him eligible for appointment on the post, permitted him to participate in the process of selection and declared him successful, that being so it is not known as to how when the expert body has found the petitioner-appellant eligible for selection, the respondent-Bank have acted contrary to the decision of the Selection Committee and taken decision to cancel the candidature of the petitioner-appellant. On that account also the decision of the Bank suffers from infirmity.

With the aforesaid, the appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

S.Pandey/-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
CAV DATE	NA
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