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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4279/2016 & CM No.18059/2016**

SHIKHA G. MISHRA Petitioner

Through Ms.Udita Singh, Adv.

versus

UNION OF INDIA AND ORS Respondents

Through Mr.Rakesh Kumar, CGSC for R-1 to 4.

Mr.Ravinder Agarwal, Adv. for UGC.
Mr.B.S. Rana, Adv. for Association
of Indian Universities.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **31.10.2017**

1. This order is in continuation of the order dated 14th September, 2017 in which the facts of the present have been recorded. For the purpose of convenience, the relevant portion of the said order is reproduced hereinbelow:-

“W.P.(C) 4279/2016 & C.M. No.18059/2016

We have heard learned counsels at some length. The dispute in this petition is whether the petitioner fulfils the minimum essential educational qualifications as prescribed in the advertisement issued for recruitment to the post of Scientific Assistant in Indian Meteorological Department (IMD). The minimum essential educational qualifications prescribed in the advertisement, inter alia, reads as follows:

**“5. MINIMUM ESSENTIAL EDUCATIONAL
QUALIFICATIONS: (As on 28.10.2011)**

Bachelor's Degree in Science (with Physics as one of the subject)/ Computer Science/Information Technology/ Computer Applications or Diploma in Electronics and Telecommunication Engineering from a recognized Institution/University or equivalent.

NOTE-I The qualifying Degree or diploma referred above should be in First Class (60% marks) or 6.75 CGPA on a 10 point scale.

NOTE-II The qualifying Degree or Diploma referred above must be of three (3) years duration.

NOTE-III The applicant must have passed 10+2 Examination from a Recognized Board or equivalent in Science with Physics and Mathematics as core subjects”.

A clarificatory note was issued in respect of the said minimum essential educational qualifications, which provide:

“C. The qualifying Degree or Diploma must be of at least three years duration. Candidates with B. Tech or B.E. in Electronics and Communication Engineer in lieu of Diploma in Electronics and Telecommunication Engineering will be considered eligible for the post”.

The petitioner applied against the said post. She has acquired Degree in B. Tech Electronics Engineering. Her candidature was rejected on the ground that B. Tech Electronics Engineering is not prescribed as one of the minimum educational essential qualifications. The case of the petitioner is that B. Tech Electronics Engineering is similar to B. Tech in Electronics and Communication Engineering.

Before the tribunal, the stand taken by the respondents was as stated in the letter dated 29.06.2012. The relevant extract from the same reads as follows:

“.....User Department has mentioned that the consideration of equivalency amongst different courses of study needs to be evaluated with reference to specific requirement of the recruiting department and duties and

responsibilities to be performed by the Cadre. IMD felt that the set of additional EQs mentioned vide SSC letter of even number dated 30.5.2012 may not be meeting the requirement of the department. Keeping in view the observation of the User Department, it has been decided by the Commission that the candidature of these 24 candidates may be rejected as mentioned in your letter dated 17.5.2012.”

The aforesaid extract would shows that there was no exercise undertaken either by the SSC or by the User Department i.e. IMD to actually ascertain whether the B. Tech Electronics Engineering is similar to B. Tech in Electronics and Communication Engineering, and whether B. Tech Electronics Engineering is suitable for considering the job requirement in question.

According to the petitioner, there are several other selection processes whereunder the said qualifications are considered as equivalent for purpose of recruitment.

Learned counsel for the respondent nos.1 to 4, which includes IMD states that the respondents would have no objection to the aspect of equivalence and suitability of the qualification of the petitioner, namely, B. Tech Electronics Engineering for the post in question being determined by an agency appointed by this Court.

Accordingly, we request the Director, Indian Institute of Technology (IIT) New Delhi to examine the aforesaid issue. The petitioner shall place before the Director, IIT the syllabus of U.P. Technical University, Lucknow from where she has acquired her degree in B. Tech Electronics Engineering and which is also offering B. Tech in Electronics and Communication Engineering. The respondent shall also provide the job description and the essential aspects of the services expected to be rendered by the Scientific Assistant in the IMD.

In case the Director, IIT requires any further assistance and information from either of the parties, the same shall also be provided and they shall fully cooperate with him so that he could arrive at his informed decision.

The Director, IIT shall after examining the materials placed before him and such other materials as may be called for and after

interacting with the petitioner as well as the respondent no.4 as also the aforesaid University, if necessary, convey his assessment to this Court in a sealed cover. The said exercise be endeavoured to be completed within a month.

Let this order be communicated to the Director, IIT at the earliest. The parties shall provide the relevant documents and appear before the tribunal after a week, after taking appointment mutually. The counsel shall coordinate amongst themselves in this regard.

A copy of this order be communicated to respondent no.5 as well.

Interim orders to continue till further orders.

List on 31.10.2017.”

2. Pursuant to the aforesaid order, the Joint Registrar (Legal), Indian Institute of Technology, Delhi has forwarded the minutes of the meeting of the Expert Committee constituted by the Head, Electrical Engineering Department, under cover of letter dated 4th October, 2017. As per the minutes of the meeting dated 29th September, 2017, the Committee has opined that the petitioner has a B.Tech. Degree that should be treated as equivalent to a B.Tech. Degree in Electronics & Communications.

3. Learned counsel for the petitioner states that in view of the aforesaid, the present petition may be allowed and the impugned judgment dated 2nd November, 2015 passed by the learned Central Administrative Tribunal, be quashed and set aside.

4. Pertinently, by the impugned judgment, the Tribunal had upheld the decision of the respondent nos.2 & 3/Staff Selection Commission, rejecting the candidature of the petitioner on the ground that she did not meet the minimum essential qualifications prescribed in the recruitment notice and the clarificatory note for selection and appointment to the post of Scientific

Assistant in the Indian Metrological Department.

5. Now that a report has been received from the Director, IIT, clarifying *inter alia* that the Degree for B.Tech. (Electronics) Engineering, acquired by the petitioner is equivalent to one in Electronics & Communications, we do not see any impediment in the petitioner being appointed to the subject post.

6. Accordingly, the impugned judgment dated 2nd November, 2015 is quashed and set aside and the respondents are directed to appoint the petitioner to the post of Scientific Assistant in the Indian Metrological Department. At the time of filing the present petition, vide order dated 13th May, 2016, directions were issued to the respondents to keep vacant, one post of Scientific Assistant. Learned counsel for the respondents states that one post has been kept vacant in terms of the said order. Necessary steps shall be taken by the respondents to issue a letter of appointment to the petitioner within two weeks from today.

7. Learned counsel for the petitioner states that the petitioner would not claim any service benefit for the period spent in pursuing the present petition and the Original Application.

8. The petition and pending application are disposed of with no orders as to costs.

HIMA KOHLI, J

REKHA PALLI, J

OCTOBER 31, 2017/aa