

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: May 24, 2017
Judgment delivered on: October 30, 2017

+ W.P.(C) 7015/2016

SANGITA RANI ARORA & ORS

..... Petitioners

Through: Mr. Ashok Panigrahi, Adv. with
Mr. Sri Om Swarup, Adv.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Rajesh Kumar, Adv. with Mr.
Pradeep Jha & Mr. Atul Krishan,
Advs. for R-1 &4
Mr. Rajat Arora, Adv. for R-2
Mr. Rajesh Kumar with Mr. Gaurav
Kr. Singh, Advs. for R-3/Canara
Bank
Mr. Ravinder Agarwal, Adv. for R-6
Mr. Anil Soni, SC for AICTE

CORAM:

HON'BLE MR JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

W.P.(C) 7015/2016

1. In view of order dated May 23, 2017, this petition survives only in respect of petitioner no.13, namely Raj Kumar.
2. The challenge in this petition is primarily to a decision of the respondent no.3 Canara Bank cancelling the provisional allotment of petitioner no.13 to the post of Specialist Officer [(Marketing Officer) (Scale-I)].
3. The facts as noted from the writ petition are that on November 16, 2015, IBPS,

respondent no.2 had issued an advertisement for conducting CWE-SPL-V for selection of personnel in six Specialist Officers Cadre Posts including the post of [(Marketing Officer) (Scale-I)] in different Nationalized Banks / Financial Institutions including Bank of Baroda, Canara Bank etc. The educational qualification prescribed for the candidates to be eligible for Marketing officer was, a Graduate having completed Full-Time MMS (Marketing) / MBA (Marketing) / Full-Time 2 years PGDBA/PGDBM with Specialization in Marketing. There is no dispute that the petitioner herein had qualified the selection process and final results were declared on April 1, 2016. He was intimated that he has been provisionally allotted against vacancies in Canara Bank. Respondent No.2 / IBPS had also issued a notification dated April 1, 2016 explaining the process of provisional allotment.

4. It is the case of the petitioner that respondent no.3 Canara Bank had sent a letter dated June 29, 2016 to the petitioner thereby cancelling the provisional allotment on the ground that his educational qualification did not meet the eligibility criterion stipulated by IBPS for the post of Marketing Officer (Scale-I). Suffice to state, the qualification of the petitioner is Master in Marketing Management.

5. Respondent no.3 Canara Bank has filed its counter-affidavit as well as an additional affidavit inter alia stating that in terms of advertisement dated November 16, 2015, a candidate was required to have specialization in Marketing even in case he has Full-Time Degree of MMS / MBA / Full-Time 2 year PGDBA / PGDBM. Any candidate not having specialization in Marketing shall not be eligible for consideration for appointment. It is the stand that qualification of Master in Marketing Management

is not prescribed qualification in the advertisement dated November 16, 2015.

6. Respondent no.2 / IBPS, apart from challenging the maintainability of the writ petition qua it, has stated that the petitioner did not have the requisite qualification in terms of the advertisement.

7. Respondent no.6 / UGC has filed a reply on record stating that the grievance of the petitioner is primarily that his educational qualification prescribed in the advertisement is equivalent to the qualification possessed by him. It is also stated that equivalence of degrees and diplomas is not undertaken by the UGC. It also stated that in case of recruitment it is the employer and in case of pursuit of higher studies it is the University which may undertake the exercise of determining the equivalence between degrees and the diplomas.

8. Mr. Ashok Panigrahi, learned counsel appearing for the petitioner would submit that the petitioner being Master in Marketing Management fulfils the qualification prescribed in terms of the advertisement inasmuch as the said qualification is equivalent to MBA (Marketing). It is his submission that syllabus of Master in Marketing Management consist of all the subjects that are in MBA (Marketing). He also states, qualification of Master in Marketing Management is equivalent to MMS. He also states, one candidate Pradeep got selected in Bank of Baroda whereas, respondent no.3 is taking vexatious objection in the appointment of petitioner no.13. He has drawn my attention to curriculum of Master in Marketing Management as well as MBA (Marketing) and MMS, to contend on the equivalence of the qualification possessed by

the petitioner and also sought in terms of the advertisement issued by IBPS. According to him, the aspect of equivalence has been certified by the Institute from which the petitioner had acquired the qualification. He has also drawn my attention to various documents including the notification of the UGC issued in March, 2014 to contend that the qualification of Master in Marketing Management as possessed by the petitioner has been restructured as MBA / M.Com (Marketing Management). In other words, the Degree of Master in Marketing Management is in fact MBA (Marketing Management). Hence, the qualification possessed by the petitioner is in fact MBA (Marketing Management) which is the requirement in terms of the advertisement. He would also state, in terms of the notification of the UGC, Savitribai Phule Pune University, the University from which the petitioner had acquired his qualification of Master in Marketing Management issued a circular dated June 22, 2015 stating that the Degree presently run by the Savitribai Phule Pune University (previously Pune University) has changed the nomenclature of MMM i.e Master in Marketing Management as MBA (Marketing Management). He would also refer to a judgment rendered by the Single Judge of the Kerala High Court in ***Writ Petition (C) 28538/2016*** decided on November 24, 2016 wherein on a similar issue whether the Post-Graduate Diploma in Management is equivalent to MBA, the learned Single Judge relying on the stand of the AICTE, which is the authority empowered to recognize degrees and diplomas conducted by private colleges in Management Studies and also the stand of an Association of Indian Universities, held the diploma possessed by the petitioner is equivalent to MBA Degree and thereby allowed the writ petition filed by the petitioner therein directing the

respondent no.1 Bank, i.e., the Canara Bank to allow the petitioner therein to join the duties. The appeal before the Division Bench by the Canara Bank was dismissed. He had also drawn my attention to a judgment of the High Court at Bombay (Nagpur Bench) wherein a question arose whether the petitioner therein who had applied for the post of Agricultural Field Officer, Scale-I and possessed a Degree of Food Technology and not in Food Science would be a relevant qualification. The court after noting the submissions on behalf of the petitioner that the Degree of Food Science is equivalent to Degree in Food Technology as the Degree awarded was known as Food Science till the year 2006-2007 and thereafter as Food Technology which position was not disputed by the respondents granted the appointment to the post of Agricultural Field Officer (Scale-I) to the petitioner therein. Suffice to state, SLP filed before the Supreme Court has since been dismissed on March 10, 2017. Mr. Panigrahi seeks the grant of relief in favour of the petitioner.

9. On the other hand, Mr. Rajesh Kumar / Gaurav Kumar, learned counsels appearing for the respondent no.3 would reiterate the stand taken by the said respondent in the counter-affidavit that the petitioner's qualifications are not the same as required in the advertisement. It is also argued that this Court does not have expertise nor is competent to determine the equivalence in qualification possessed by the petitioner and required by the respondent for appointment as Marketing Officer. They would rely upon the following judgments in support of their contentions:

“1. Mohammad Shujat Ali and Ors. v. UOI and Ors. & Sunkara Rattaiah and Ors. v. the State of Andhra Pradesh and Ors. [1975 (3) SCC]

2. *State of Rajasthan and ors. v. Lata Arun*, [2002 (6) SCC 252]
3. *Pramod Kumar v. U.P. Secondary Education Services Commission and Ors.* [2008 (7) SCC 153]
4. *Mohd Sohrab Khan v. Aligarh Muslim University and Ors.* [2009 (4) SCC 555]
5. *State of Madhya Pradesh and Ors. v. Ramesh Chandra Bajpai* [2009 (13) SCC 635]
6. *Narender Kr. Joshi v. UOI & Ors.* [115 (2204) DLT 663]
7. *Ms. Nisha v. UOI & Ors. in W.P.(C) No. 6100/2012 judgment passed by the High Court of Delhi on 26.11.2012.*
8. *Ms. Nisha v. UOI and Ors. in W.P.(C) No. 6100/2012, order passed by the High Court of Delhi on 12.07.2013.*
9. *Gaurav Singh v. UOI and 3 Ors. in Writ – A. No. 44934 of 2013 passed by the High Court of Allahabad on 30.04.2015.*
9. *Sachin Sheshrao Narnaware v. UOI in W.P. No. 3829 of 2014, order passed by High Court Bombay Nagpur Bench, Nagpur dated 09.12.2014.”*

10. Mr. Rajat Arora, learned counsel appearing for the respondent no.2 would reiterate the stand taken in the counter-affidavit so also Mr. Ravinder Aggarwal, learned counsel appearing for respondent no.6 / UGC.

11. Having heard the learned counsel for the parties, the only issue which arises for consideration is whether the qualification of Master in Marketing Management possessed by the petitioner is the same or equivalent to the qualification of MBA (Marketing) as required by the advertisement dated November 16, 2015 issued by the respondent no.2 for appointment to the post of Marketing Officer in the respondent Bank.

12. It is noted pursuant to the notification of the UGC of March, 2014 (notified on

July 05, 2014) wherein the Degree of Master in Marketing Management has been restructured as MBA (Marketing Management), the University from which the petitioner had acquired his Master in Marketing Management, i.e., University of Pune later named as Savitribai Phule Pune University has vide its circular dated June 22, 2015, has changed the nomenclature of the Degree of Master in Marketing Management as MBA (Marketing Management), which is the requirement in terms of the advertisement dated November 16, 2015. So, the plea of the respondent no.3 Canara Bank in their pleadings that the petitioner no.13 herein does have the prescribed qualification in terms of the advertisement dated November 16, 2015 is not sustainable. I find, despite the petitioner filing an application being CM. No. 12337/2017 wherein the petitioner had relied upon the notification of the UGC of March, 2014 (as notified on July 5, 2014), no attempt has been made by the Canara Bank to clarify the position which emerges from the notification of March, 2014 (as notified on July 5, 2014) by the UGC, rather they in their affidavit filed on January 30, 2017, they reiterate the position initially taken in their counter-affidavit that the petitioner's qualification of Master in Marketing Management is not a prescribed qualification in the advertisement dated November 16, 2015.

13. The case of the petitioner is covered by the judgment of the Bombay High in the case of *Neelam Rama Kamble v. Union of India and Ors. in W.P.(C) 5283/2016* inasmuch as in the said case also, the Degree which was acquired by the petitioner was in Food Technology. The said Degree was termed / known as Degree Course in Food Science till 2006-2007 and thereafter as Food Technology. The appeal of the Canara

Bank was dismissed by the Supreme Court. Similarly in the case in hand even assuming the Degree of petitioner was termed as Master in Marketing Management, post the notification of the UGC March, 2014 (as notified on July 05, 2014) or for that matter, post the circular of the Savitribai Phule Pune University on June 22, 2015 termed the Degree as MBA (Marketing Management). The petitioner is also entitled to the relief as prayed for in the present petition inasmuch the decision of the respondent no.3 dated March 29, 2016 to cancel the provisional allotment of the petitioner for the post of Specialist Officer [(Marketing Officer) (Scale-I)] is set aside and the respondent no.3 Canara Bank is directed to issue appointment letter in favour of the petitioner within four weeks and the appointment of the petitioner shall be treated of the batch for which, the petitioner was allotted the said post.

14. Insofar as the judgments, relied upon by the learned counsel for the respondent No. 3 are concerned, in *Mohammad Shujat Ali (supra)* and *State of Rajasthan v. Lata Arun (supra)*, on which reliance was placed by the learned counsel in support of their contention that the Courts cannot decide whether a particular qualification should or should not be accepted as equivalent qualification prescribed by the Authority, suffice to state, there is no dispute on the said proposition. In the facts, the said judgments have no applicability.

15. Insofar as the judgment of the Supreme Court in *Pramod Kumar (supra)* is concerned, the Supreme Court was concerned with an issue, any appointment made without having qualification from a recognized Institution is a nullity. In the said case, the degree of B.Ed was acquired from an Institution, which was not recognized to

conduct a B.Ed Course. The judgment has no applicability, as the issue in this case is not whether the qualification possessed by the petitioner No. 13 is from a recognized Institution or not, but, is in terms of advertisement issued by respondent No.2 IBPS.

16. In ***Mohd. Sohrab Khan (supra)***, the Supreme Court held that the recruitment must be held in terms of the qualification prescribed in the advertisement. The Supreme Court held, after advertising the educational qualification as Masters Degree in Chemistry (or pure Chemistry) for the post of Lecturer in University polytechnic and could not have been filled by a person who holds a Masters Degree in Industrial Chemistry. The Supreme Court allowed the appeals. The judgment is distinguishable on facts.

17. Insofar as the judgment in the case of ***State of Madhya Pradesh and Ors v. Ramesh Chandra Bajpai (supra)***, is concerned, the reliance placed by the learned counsel for the respondent No.3 to contend that, Article 14, carries with it a positive concept of equality and not for perpetuating illegality is concerned, there is no dispute on the said proposition, but in the peculiar facts of this case, I am afraid the said proposition would have no applicability.

18. The judgment of ***Narender Kumar Joshi (supra)***, wherein this Court, has held that the petitioner possessed the requisite knowledge and directed his appointment, would be of no help to the respondent No.3. Similar is the judgment in the case of ***Ms. Nisha (supra)***, wherein this Court has, on the basis of Expert Committee evaluation, determined the equivalence in four subjects and held, in the facts the judgment of the

Supreme Court in *Mohammad Shujat Ali's* case is not applicable. Similar is the position in this case as well in the facts, the judgments in the case of the *Mohd. Shujat Ali (supra)* and *State of Rajasthan v. Lata Arun (supra)* have no applicability.

19. Insofar as the judgment in the case of *Gaurav Singh (supra)*, wherein reliance was placed on the judgment of the Supreme Court in *Mohd. Sohrab Khan's case (supra)*, which judgment I have distinguished in the above paras, the same is of no help to the learned counsel for the respondent No.3.

20. Similarly, the judgment of the Bombay High Court in *Sachin Sheshrao Narnaware (supra)*, is distinguishable on facts. The petition is allowed, in terms of the above. No costs.

CM. No. 28832/2016 (for Stay)

CM. No. 12337/2017 (for Direction)

Dismissed as infructuous.

V. KAMESWAR RAO, J

OCTOBER 30, 2017/jg