

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 4877 of 2018

Dr. Kanti Sahu D/o Takhatram Sahu, aged about 35 years, R/o Pitrichaya, Shivnand Nagar, Sector-3, Gondwara Road, Khanatarai, Raipur, District Raipur (C.G.).

...Petitioner

Versus

1. State of Chhattisgarh, Through its Secretary, Department of Agricultural & Biotechnology, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (C.G.).
2. Indira Gandhi Krishi Vishwavidyalaya, Through its Registrar, Krishak Nagar, Raipur, District Raipur (C.G.).
3. University Grants Commission, Through its Registrar, ITO, Metro Gate No.3, Bahadur Shah Zafar Marg, New Delhi.

... Respondents

For petitioner	:	Shri Mateen Siddiqui, Advocate.
For respondent No.2	:	Shri D.N.Prajapati, Advocate.
For respondent No.3	:	Shri S.S.Rajput, Advocate.
For State	:	Shri Chandresh Shrivastava, PL.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

31/07/2018

1. The issue raised by the petitioner in the instant Writ Petition is as to whether the petitioner has the minimum qualification prescribed for the post of Assistant Professor/Scientist in the subject Agricultural Statistics and whether declaring of the petitioner as ineligible by the respondents was justified or bad in law.

2. The facts of the case in brief is that, the respondent No.2 vide Annexure-P/2 dated 19/02/2018 had issued an advertisement for recruitment of backlog vacancies of Assistant Professor/Scientist and Technical

Assistant. Of the many subjects for the post advertised, one such subject was Agricultural Statistics. The essential qualification prescribed under the advertisement was as under:-

“Qualification:

Assistant Professor/Scientist

Qualification : Essential.

01. Master's Degree in relevant subject of Agriculture/Agricultural Engineering/Agri-Business Management/Veterinary faculty with at least 55% marks (or its equivalent grade 6.50 in 10.00 scales) with good academic record.”

3. The petitioner in the instant case having a masters degree in M.Sc. (Final) Statistics and P.hd.
4. According to the counsel for the petitioner, the post graduation in the subject in which the petitioner has done could be considered as equivalent to the essential qualification prescribed in the advertisement. It was further the contention of the counsel for the petitioner that, the post graduation and P.hd in the subject which the petitioner has done is infact best suited for the post of Agricultural Statistics.
5. According to the counsel for the petitioner, the principle task involved in the post of Agricultural Statistics are the collection and pressing of statistical data and the petitioner also has studied precisely the said subject. The meaning of statistics is the science of data in which collected data are compiled and gives result in the form statistics. According to the counsel for

the petitioner, the petitioner fulfills the essential qualification for the post of Assistant Professor (Agricultural Statistics).

6. The further grievance of the petitioner is that, initially the respondents had enlisted the name of the petitioner in the list of eligible candidates. However, subsequently, when the online notifications were made, the petitioner's name did not find in the list, rather his name was reflected in the list of ineligible candidates. He further contended that, with the same set of facts and degree, the petitioner applied for similar post in the Agriculture University at Jabalpur so also at the Bihar Agriculture University and in both the places the petitioner has got shortlisted for interview.

7. Likewise, again so far as the Banda University of Agriculture and Technology, the petitioner's candidature has been accepted and called for interview.

8. Undisputedly, the post for which the petitioner has applied was Assistant Professor/Scientist and the subject for which they have applied was Agricultural Statistics. The minimum qualification prescribed is one i.e. envisaged in the earlier paragraph of this judgment.

9. So far as the petitioner's qualification is concerned, he has a master degree in statistics and P.hd. and the essential qualification required is a masters degree in the relevant subject of agriculture/agriculture engineering/agri business management/veterinary faculty.

10. The petitioner apparently does not possess the qualification prescribed under the advertisement though according to him, the qualification that he

has in his possession is more suitable for the post of Assistant Professor/Agricultural Statistics.

11. What cannot be doubted is that, laying down the criteria for recruitment including the eligibility criteria, the requisite educational qualification are all well within the domain of the employer. It is also well settled by now that it is not within the powers of the High Court under Article 226 of the Constitution of India to undertake the exercise of drawing equivalence on the basis of the course which has been undertaken by the petitioner to the course or qualification prescribed under the advertisement or the rules governing the recruitment.

12. Whether a particular course is better suited for the post advertised when compared to the minimum educational qualification under the Act and Rules as also in the advertisement is again within the realm of the executive power which lays in the hands of the Government.

13. It is always permissible for the employer to prescribe an appropriate qualification in the matter of appointment to a particular post. It is also within the domain or discretion of the legislature/executive to prescribe any such qualification giving equivalence to the qualification prescribed under the Rules or in the advertisement.

14. There is no dispute to the proposition that the Courts particularly the High Courts should be reluctant to interfere with the Rules prescribing the eligibility criteria unless they are found to be arbitrary or unreasonable.

15. As early as in 1990 1 SCC 288, the Hon'ble Supreme Court in the case of J. Ranga Swami v. Government of Andhra Pradesh & Ors. has held that, it is not for the Court to consider the requirement of qualifications prescribed for various posts. The Court is not to decide or direct what should be the qualification to be prescribed for the post in question. It is always the wisdom of the legislature and the delegates in framing the policy or Rules so far as prescribing the essential qualifications are concerned. Such exercise of power is not to be easily questioned or over-ridden, nor is it within the power of High Court under Article 226 of the Constitution of India to intrude into this arena.

16. In the case of University of Mysore & Anr. v. C.D.Govinda Rao & Anr. [AIR 1965 SC 491], the Supreme Court has held that, even in the absence of statutory rules of academic qualifications, the Court would naturally hesitate to intervene particularly when the matter has been duly considered by the persons authorized to do so. It was also held therein that, once the qualifications have been laid down by binding statutory provisions, then the concept of strict compliance therewith would entitle the State to insist that these be meticulously satisfied and extraneous consideration like qualifications other than those prescribed being either the exact equivalent or technically higher than those would be irrelevant to the issue and indeed may well be contrary to the statutory prescription.

17. In Ekta Shakti Foundation Vs. Govt. of NCT of Delhi, 2006 AIR SCW 3601 the Supreme Court also observed as under :-

“While exercising the power of judicial review of administrative action, the Court is not the appellate authority and the Constitution does not permit the Court to direct or advise the executive in matter of policy. The scope of judicial enquiry is confined to the question whether the decision taken by the Government is against any statutory provisions or is violative of the fundamental rights of the citizens or is opposed to the provisions of the Constitution. Thus, the position is that even if the decision taken by the Government does not appear to be agreeable to the Court it cannot interfere.

In matter of policy decisions or exercise of discretion by the Government so long as the infringement of fundamental right is not shown Courts will have no occasion to interfere and the Court will not and should not substitute its own judgment for the judgment of the executive in such matters. In assessing the propriety of a decision of the Government the Court cannot interfere even if a second view is possible from that of the Government.”

18. The fixation of qualification, granting of equivalent status, etc. is essentially an executive function and the High Court in exercise of power under Article 226 of the Constitution of India ordinarily would not interfere in such matters.

19. The aforesaid proposition of law as has been settled when compared to the present facts would clearly reflect that, the petitioner in the instant case apparently does not have the prescribed essential qualification as per the advertisement.

20. Merely because in the past, the petitioner has been called for interview by many other Universities by itself would not give the qualification which the petitioner has an equivalence with the essential qualification prescribed under the Act or the advertisement.

21. Even though, the petitioner might have been declared as ineligible at the behest of a complaint, but what cannot be brushed aside is the fact that, the petitioner admittedly does not have the requisite essential qualification and neither is there any instructions whereby the qualification which the petitioner has can be treated as equivalent to the qualification prescribed.

22. The Writ Petition thus being devoid of merits deserve to be and is accordingly dismissed.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE