

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1569 OF 2017

Bala Ramrao Dakle .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri. S.G. Munde, Advocate for the Petitioner.

Smt. Vaishali N. Patil, A.G.P. for Respondent Nos. 1 and 2.

Shri. A. S. Bajaj, Advocate for Respondent No. 5.

None for Respondent Nos. 3 and 4.

**CORAM : S.V. GANGAPURWALA AND
A. M. DHAVALA, JJ.**

DATED : 23rd April, 2018

PER COURT:

. Mr. Munde, the learned counsel for the petitioner submits that pursuant to the advertisement No. 3/15 issued by the respondents, petitioner applied for the post of Junior Assistant (Accounts). The learned counsel submits that the petitioner is ex-serviceman and he has served in the defence for more than fifteen (15) years. Certificate of equivalence to

graduation certificate is issued in favor of the petitioner by Commanding Officer Artillery Depot Regiment Nasik Road, Camp, Nasik on 31.10.2014. The petitioner possess the qualification of matric. According to the learned counsel the qualification for the post of Junior Assistant (Accounts) is Bachelor of Commerce/ Bachelor of Business Administration /Bachelor of Management studies with MSCIT. The learned counsel relies on note 1 to the advertisement and submits that the degree and diploma should be from University or Institute in India established or incorporated under Central Act or a State or any other qualification recognized as equivalent thereto by the competent authority. The competent authority has issued certificate to the petitioner of equivalence. The petitioner's matriculation with fifteen (15) years experience with the Indian Army is equivalent to degree. It was an error on the part of respondents in negating the application of the petitioner. The learned counsel also relies upon notification dated 12.02.1986 to contend that matriculate ex-serviceman who has put in not less than fifteen (15) years of service in Armed Forces can be considered eligible for appointment to the post for which the essential educational qualification prescribed is graduation and where work experience of technical and professional nature is not essential. In the advertisement for the post of Junior Assistant (Accounts) no experience is provided. The learned

counsel also relies on the Government Resolution dated 05.10.1989 to buttress his submission about equivalence.

2. Mr. Bajaj, learned counsel submits that the Respondent Nos. 1 and 5 are governed by their own Recruitment Rules known as Classification and Recruitment Regulations 2005. The rules do not specify for such an equivalence.

3. We have considered the submissions.

4. The petitioner was working as a Driver with the Indian Army and his qualification is only matric. The post for which the petitioner has applied is Junior Assistant (Accounts). The petitioner does not possess any qualification in Accounts. The notification dated 12.02.1986 is issued by the Government of India, under proviso to article 309 of the Constitution of India, as such the same has a statutory force. Under the said notification Ex-serviceman (Re-employment in Central Civil Services and Posts) Rules, 1979 are amended. The said Rules are applicable for re-employment of ex-serviceman in Central Civil Services and Post. The respondent No. 1 herein is a Company incorporated under the Companies Act and is governed by its own set of Rules. Employment with

Respondent No. 2 can not be equated with re-employment in Central Civil Services and Post. The Government Resolution dated 05.08.1989 is issued by the State Government. The equivalence provided to the ex-serviceman possessing matriculate is also provided to the employment in State Government. The Respondent No. 2 again cannot be equated with the State Government. The Respondent No. 2 would be governed by its own set of Recruitment Rules governing recruitment.

5. Nothing is pointed out before us that as per Rules governing the employment with Respondent Nos. 2 and 3 matriculate qualification possessed by ex-serviceman, who has put in more than 15 years service with the Indian Army is considered equivalent to graduation.

6. The post for which the petitioner has applied exclusively deals with Accounts. The petitioner for all these years with the Indian Army was working as a driver.

7. In absence of any Rules governing the Respondent No. 2 prescribing equivalence of a matriculate qualification possessed by an ex-serviceman with a degree, the case of the petitioner can not be considered.

8. In light of the above, the writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

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