

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos.35310 of 2018 & 9681 of 2019

COMMON ORDER:

As the issue raised in both these writ petitions is one and the same, they are heard together and are being disposed of by this common order. For the purpose of convenience, facts as narrated in W.P.No.35310 of 2019 are discussed.

2. This writ petition is filed seeking a Writ of Mandamus, declaring the action of respondents in provisionally accepting the petitioners/questioning the petitioners' higher qualifications in the selection process for the post of Extension Officer Grade-I (Supervisor) in Women Development, Child Welfare and Disabled Welfare Department in the State of Telangana, selected pursuant to the list dated 11.09.2018, inspite of clearing the written examination and having all the requisite qualifications as prescribed by the Telangana State Public Service Commission, Hyderabad vide Notification No.66 of 2017, dated 18.12.2017 read along with the applicable addendum dated 11.01.2018, as illegal, arbitrary and violative of principles of natural justice and sought a consequential direction directing the respondents to issue appointment orders for the post of Extension Officer Grade-I (Supervisor) in Women Development, Child Welfare and Disabled Welfare Department in the State of Telangana based on the petitioners' merit and rank in the

Selection list dated 11.09.2018 without discriminating the petitioners on the basis of the higher qualifications obtained by them.

3. Heard learned counsel for the parties.

4. It has been contended by the petitioners that they are fully eligible and qualified to be appointed to the post of Extension Officer Grade-I (Supervisor) in Women Development, Child Welfare and Disabled Welfare Department and the 2nd respondent had issued Notification No.66/2017, dated 18.12.2017 inviting applications for the said post. The petitioners submit that as per the Notification, the qualifications prescribed for the post of Extension Officer Grade-I (Supervisor) in Women Development, Child Welfare and Disabled Welfare Department are as under :

Post Code	Name of the Post	Educational Qualifications as specified by the department of WD, CW & DW Dept., vide G.O.Ms.No.14, Department of Women, Children, Disabled and Senior Citizens (ESTT-A2), Dt.27/06/2013.
1	Extension Officers Grade-I (Supervisor) in Women Development, Child Welfare and Disabled Welfare Department.	1) Must possess a Bachelor's Degree in Home Science/Bachelor's Degree in Social Work (OR) 2) Degree in Sociology; (OR) 3) B.Sc. [Hons.] – Food Science & Nutrition; (OR) 4) B.Sc. – Food & Nutrition, Botany/Zoology & Chemistry/Bio-Chemistry; (OR) 5) B.Sc. – Applied Nutrition & Public Health, Botany/Zoology & Chemistry; (OR) 6) B.Sc. – Clinical Nutrition & Dietetics, Botany/Zoology & Chemistry; (OR) 7) B.Sc.–Applied Nutrition, Botany/Zoology & Chemistry/Bio-Chemistry; (OR) 8) B.Sc. – Food Sciences & Quality Control, Zoology/Botany & Chemistry/Biological Chemistry; (OR) 9) B.Sc. – Food Sciences & Management, Botany/Zoology & Chemistry/Biological

		Chemistry; (OR) 10) B.Sc. – Food Technology & Nutrition, Botany/Zoology & Chemistry; (OR) 11) B.Sc. – Food Technology & Management, Botany/Zoology & Chemistry/Bio-Chemistry.
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After issuance of the said Notification, respondents have issued an addendum on 11.01.2018 to the effect that the candidates/aspirants who wish to apply to the post of Extension Officer Grade-I (Supervisor) vide Notification No.66/2017, dated 18.12.2017 to take note that in view of G.O.Ms.No.282, dated 20.09.2003, the candidates who possess higher qualification than the prescribed qualification and the candidates with higher qualification without the prescribed qualification shall also be considered for selection along with candidates who have the prescribed qualification only and in pursuance of G.O.Ms.No.14, dated 10.05.2000, G.O.Ms.No.14, dated 27.06.2013, G.O.Ms.No.16, dated 31.05.2016, preferential qualifications are also prescribed to the post of Extension Officer Grade-I (Supervisors-Grade-I). Pursuant to the said Addendum issued by the 2nd respondent, the petitioners became qualified even though they do not possess the requisite qualifications as originally notified. Pursuant to the addendum dated 11.01.2018, the petitioners had responded to the said notification and participated in the selection process and after going through regular selection process, the petitioners have fared decently well and all the petitioners have come within the zone of consideration for appointment to the post of Extension Officer Grade-I (Supervisor). The petitioners submit that at

the time of certificate verification before issuing appointment orders, the case of petitioners are not considered on the ground that they do not possess the requisite qualifications as set out in the original notification. The petitioners submit that they have got post-graduate qualification and in terms of addendum, they are fully eligible and qualified to be appointed to the post of Extension Officer, Grade-I. Therefore, counsel appearing for petitioners contend that in view of higher qualifications, they cannot be non-sued for appointment to the post of Extension Officer, Grade-I, and contend that appropriate orders be passed in the writ petitions, directing the respondents to treat the higher qualification of the petitioners as equivalent qualification and to declare that the petitioners are fully eligible and qualified to be appointed to the post of Extension Officer, Grade-I in terms of addendum dated 11.01.2018 and further direct the respondents to appoint the petitioners as they are within the zone of consideration and secured merit.

5. The learned Special Government Pleader attached to the office of Advocate-General has appeared on behalf of respondents and contended that the addendum issued in pursuance to G.O.Ms.No.282, dated 20.09.2003 is not framed in its right spirit. It was issued way-back in September 2003 and if G.O.Ms.No.282, dated 20.09.2003 is read in its entirety, then, the object with which the said G.O. was issued, will be defeated and mere issuance of addendum would not give any right to the petitioners to seek appointment to the

post of Extension Officer and the qualifications are prescribed as per the recruitment rules. If the contention raised by the petitioners that their cases should be considered for appointment to the post of Extension Officer, Grade-I without any requisite qualifications as set out in the special Rules is accepted, it may lead to a chaotic situation and the purpose of prescribing certain qualifications as per recruitment rules itself would be defeated. As far as this *ad hoc* rule which was issued vide G.O.Ms.No.282, dated 20.09.2003 is concerned, the said G.O. was issued by the then State of Andhra Pradesh as per the orders of the Hon'ble Supreme Court in **Arun Thiwari & others v. Zila Mansavi Shikshak Sangh**¹. The said G.O., if to be taken to its logical conclusion, may lead to a very chaotic situation as persons without prescribed qualifications but with higher qualifications in the form of post-graduation in the unconnected subject also become eligible. That is not the purport of the judgment rendered by the Hon'ble Supreme Court referred supra. If G.O.Ms.No.282, dated 20.09.2003 is read in its entirety, would make it abundantly clear that the Hon'ble Supreme Court in the judgment referred above, held that a higher qualification which is prescribed for a particular scheme, cannot be considered as violative of Article 14. If candidates with higher qualifications are available, choosing them instead of candidates with inferior qualifications is not violative of Article 14 or 16.

¹ 1998 (2) SCC 332

6. In another case in **Md.Riazul Osman Gani v. District & Sessions Judge, Nagpur**², it is held by the Hon'ble Supreme Court that a criterion which has the effect of denying a candidate his right to be considered for the post on the principle that he is having higher qualification than prescribed, cannot be rational.

7. By following the judgments of Hon'ble Supreme Court stated supra, the State Government has issued G.O.Ms.No.282, dated 20.09.2003 to the effect that direct recruitment to various categories of posts in public service shall be as per the qualifications prescribed in the rules governing such posts. In several cases, it is noticed that the candidates with higher qualifications are appearing for selections and are claiming for their appointment, even though they do not possess the prescribed qualifications. In those set of circumstances, the State Government had come up with G.O.Ms.No.282, dated 20.09.2003. While framing the *ad hoc* Rule, it was incorrectly framed to the following effect;

“Notwithstanding anything contained in the A.P. State and Subordinate Service Rules or Special Rules or any other rule governing the post, for the direct recruitment the candidate who possesses higher qualification than the prescribed qualification and the candidate with higher qualification without the prescribed qualification shall also be considered for selection along with candidates who have the prescribed qualification only.”

² 2000 (1) SCALE 508

8. The second limb of this *ad hoc* rule is contrary to the object for which the said *ad hoc* rule itself was framed. Therefore, the Special Government Pleader contends that the second limb of the *ad hoc* rule to the effect that “Candidates who possess higher qualification than prescribed qualification shall also be considered”, is not the object for which the *ad hoc* rule is framed and contends that if G.O.Ms.No.282, dated 20.09.2003 is to be taken to its logical conclusion, it may run contrary to the qualifications prescribed in the Special Rules, therefore, the benefit of G.O.Ms.No.282, dated 20.09.2003 cannot be extended to the petitioners merely because the 2nd respondent had issued an addendum, despite the petitioners not possessing the requisite qualifications as mentioned in the Special Rules.

9. This Court is of the considered view that though the petitioners were made eligible to appear for the post of Extension Officer Grade-I pursuant to the addendum dated 11.01.2018, the case of the petitioners cannot be considered for appointment to the said post, as they do not possess the prescribed qualifications as per the recruitment Rules. If the argument of the petitioners is to be accepted, any post-graduate candidate can stake claim irrespective of their not possessing requisite qualifications, in which event, the purpose of prescribing specific qualifications in the Special Rules itself would be defeated. The object of prescribing relevant and requisite qualifications as per the Special Rules is to see that the candidates should have got minimum knowledge to discharge the duties and if the *ad hoc* rule is to be made

applicable in respect of post notified, it may lead to chaotic situation and persons do not having relevant qualifications as prescribed in the rules, would be discharging their duties as Extension Officers. That is not the object with which the Special Rules are framed. Mere issuance of addendum with the object that the 2nd respondent would follow G.O.Ms.No.282, dated 20.09.2003 would not give any legal right for the petitioners to claim appointment to the post of Extension Officer, Grade-I, though they do not have requisite qualifications. Therefore, this Court is not inclined to interfere in the matter.

10. The writ petitions are devoid of merit and are accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

11th June, 2019

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