

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No.4899 of 2012

Smt. Jyoti Mishra W/o Aseem Mishra Aged About 35 Years R/o Qtr No. T-45/5 M ITI Campous, Koni Post, Police Station, Koni, Distt Bilaspur, Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary Technical Education Man Power Planning And Science And Technology Deptt, DKS Bhawan, Raipur, PS Civil Line, Distt Raipur, Chhattisgarh.
2. The Director, Employment and Training, Women Polytechnic Premises, Byron Bazar, Raipur, PS Civil Line, Raipur, Chhattisgarh.
3. Ku. D. Saraswati D/o D. Ramanna Rao Through Director, Employment and Training, Women Polytechnic Premises, Byron Bazar, Raipur PS Civil Line, Raipur, District : Raipur, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Prateek Sharma, Advocate.
For State	:	Shri P. Acharya, Panel Lawyer.
For Respondent 3	:	Shri Sandeep Dubey, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03.02.2020

1. The relief sought for by the petitioner in this petition is for quashment of Annexure P/1, dated 03.10.2012, which is a list of selected candidates called for interview for the post of Training Officer (Instruments Mechanic).
2. The brief facts relevant for adjudication of the present writ petition is that, an advertisement was published by the respondents-State on 02.09.2010 for 723 posts of Training Officer in different trades. The dispute confined in the present writ petition from the said advertisement is to the post reflected at serial No.13 i.e. for the post of Instruments Mechanic for which the total post advertised was 11.
3. As per the advertisement, the educational qualification required for the said post was Higher Secondary 10+2 with Mathematics and Science as the subject or old 11th certificate in the same subject or any other

equivalent examination. So far as technical qualification is concerned, the requisite qualification prescribed was degree or diploma holder in Instrumentation Engineering or equivalent to Instrumentation Engineering from recognized University/Board or passed examination in the concerned subject from All India Craftsman Certificate Examination or passed examination of N.A.C. or equivalent to N.A.C. For ready reference the Hindi version, as reflected in the advertisement, is also reproduced hereinunder:

“पद क्रमांक-13 के लिए:-मान्यता प्राप्त विश्वविद्यालय/बोर्ड से इन्स्ट्रुमेंटेशन इंजीनियरिंग या उसके समतुल्य में उपाधि/पत्रोपाधि (डिप्लोमा) या संबंधित व्यवसाय में अखिल भारतीय दस्तकारी परीक्षा उत्तीर्ण हो (ऑल इंडिया काफ्ट्समेन सर्टिफिकेट एक्जामिनेशन) या एन.ए.सी. या उसके समकक्ष परीक्षा उत्तीर्ण हों।”

4. The petitioner did not apply for the said post as she had the qualification of Diploma in Electronics. In addition, the petitioner also has an additional Diploma in I.T. The whole grievance of the petitioner now is that it is only subsequent to the advertisement having been published, the State Govt. constituted a committee to decide the different technical qualification which would be equivalent to the educational qualification prescribed under the advertisement for each of the subjects/trade. So far as post of Instruments Mechanic is concerned, the equivalent qualification prescribed by the said committee was (1) B.E./Diploma, Electronics and Instrumentation Engineering (2) B.E./Diploma, Electronics and Telecommunication Engineering (3) B.E./Diploma, Electronics (4) B.E./Diploma, Instrumentation and Process Control Engineering.
5. Based upon the said equivalence framed by the expert committee done much subsequent to the advertisement having been published and the last

date for filling up of the forms was over, the State Govt. thereafter issued Annexure P/5 dated 07.10.2011 constituting another committee to scrutinize the applications filled by the different applicants to determine whether the applications are proper or not so far as technical and educational qualification is concerned and whether they have the equivalence to the substantive educational qualification prescribed under the recruitment rules itself.

6. The challenge by the petitioner in the instant case is that, if the petitioner would have known her equivalent qualification to the main qualification prescribed for the post of Instruments Mechanic in advance, the petitioner could have also applied for the said post. There was no other documents available either with the State Govt. or with any of the concerned body or agency from where the equivalency could have been determined at the time of advertisement. In the absence of any such document with the State Govt. or any of the agency or body or technical education board, the subsequent determination of the equivalent qualification had a detrimental effect so far as petitioner's prospect is concerned as she and other similarly qualified persons have been deprived of applying for the said post. Meanwhile, some of the persons who have applied for the said post without knowing whether their qualification is equivalent have got a chance to be selected in the said recruitment process. This according to the petitioner, is arbitrary and also bad in law. The petitioner relies upon the judgment of the Supreme Court in case of Prakash Chand Meena & Others Vs. State of Rajasthan & Others, 2015(8)SCC 484 to substantiate her argument.
7. The counsel for the State opposing the petition however submits that from the advertisement itself it is evidently clear that the persons whoever had

equivalent qualification could have applied for the said post. This according to the State counsel was enough for the petitioner to have applied for the said post and tried her luck. In spite of the advertisement being specific for persons with equivalent qualification being entitled for applying, and if the petitioner has not applied for the said post, the petitioner alone is to be blamed and that action on the part of the respondents cannot be held to be bad in law. The State counsel further submits that it is a case where the petitioner has, at the same time, applied for other posts from the said advertisement. Nothing prevented her from applying for this post also. Therefore, the writ petition being devoid of merit should be rejected.

8. Learned counsel appearing for the Intervenor, on the other hand, submits that once when the advertisement permits the candidates with equivalent qualification to apply, the petitioner was required to apply and if the petitioner has not applied, she alone would be responsible for the same and the respondent authorities cannot be blamed for the same. He further submits that the authorities having decided the equivalence part, if the petitioner would have applied, her candidature also could have been considered and her application would have also been processed accordingly.
9. The counsel for the Intervenor further submits that in view of the selected candidates who were called for interview as per Annexure P/1 have also been interviewed on 09.11.2012, the action on the part of the respondents be not interfered with at this stage and if at all if the petitioner is found to be eligible, she may also be permitted to participate in the said recruitment process.

- 10.** Having heard the contentions put forth on either side and on perusal of records, some of the undisputed facts of the present case is that, an advertisement was published on 02.09.2010 for filling up of the various posts of Training Officer in the different subjects. The dispute in this writ petition is confined only on the subject of Instruments Mechanic. The last date for filling up of the application was 30.09.2010. The qualification required for the said post, both educational and technical, is what is reflected in the preceding paragraphs.
- 11.** Though the advertisement was published on 02.09.2010, neither advertisement nor the State authorities had any document or any order in their possession by which it can be determined as what would be the equivalent subject/course as compared to the degree and diploma in Instrumentation Engineering.
- 12.** What is also relevant at this juncture is that the rules governing the field is the Chhattisgarh Industrial Training (Non Gazetted Service) Recruitment Rules, 2005. The relevant educational qualification prescribed for the post of Training Officer (Instrument Mechanic) is as under :

Sl. No.	Name of the service or post	Age limit		Educational Qualification
		Minimum	Maximum	
7	Training Officer (Instrument Mechanic)	18 years	35 years	1- From recognized board High School or Old 11 th with Maths, Physics and Chemistry or equivalent examination pass. 2- Degree/Diploma in Instrumentation Engg. Or equivalent from recognized University/Board or NTC/NAC or equivalent in related trade. 3- Possesses certificate under Craft Instructor Training Scheme (one year course from ATI/CTI. In case if he not trained from ATI/CTI, it is essential him to pass the training examination within a period of three years from the date of appointment.

- 13.** Given the aforesaid undisputed factual matrix of the case, all that now has to be seen is that whether on the date of advertisement the State authorities or any of the respondents had any such order or circular by which the equivalent to the course of degree/diploma in Instrumentation Engineering was available or not. The document Annexure P/4 as well as Annexure P/5 would compels this court to draw an inference that this decision for deciding the equivalent subject had been undertaken by the respondents much after the advertisement and the last date for filling up of the form was over. There is no rebuttal whatsoever to the specific plea made in this regard by the State Govt. in their reply or in their application for vacating interim relief granted by this court as early as on 01.11.2012.
- 14.** At this juncture, it would be relevant to refer to the judgment in case of Prakash Chand Meena (Supra) wherein dealing with similar situation, the Supreme Court in paragraph 9 has made the following observations:
- “9.....In the matter of eligibility qualification, the equivalent qualification must be recognized as such in the recruitment rules or government order existing on or before the initiation of recruitment process. In the present case, this process was initiated through advertisement inviting application which did not indicate that equivalent or higher qualification holders were eligible to apply nor were the equivalent qualifications reflected in the recruitment rules or government orders of the relevant time.”
- 15.** Given the aforesaid decision of the Supreme Court and also considering the undisputed facts of the present case, this court is also is of the view that the decision of deciding the equivalence to the course of degree/diploma in Instrumentation Engineering by the respondents subsequent to the recruitment process having been initiated is bad in law. The same should had been undertaken before the recruitment process

itself had taken or at least it should have been finalized before the date of advertisement i.e. on 02.09.2010.

16. Under the said circumstances, since this court had by interim order stayed the entire recruitment to the said post, hence the entire recruitment process initiated for the post of Instrument Mechanic i.e. serial No.13 in Annexure P/2 (in the advertisement dated 02.09.2010), is bad in law, the same stands set aside/quashed including Annexure P/1 dated 03.10.2012, declaration of the selected candidates for interview in the subject of Instruments Mechanic, reserving the right of the respondents to go in for a fresh recruitment for the said post.

17. The writ petition stands allowed.

Sd/-
(P. Sam Koshy)
Judge

inder