

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2660 OF 2019

The Chief General Manager (HR),
Maharashtra State Electricity Transmission
Co.Ltd. & Ors.

...Petitioners

vs.

Panchappa Dattatraya Takkalgi

...Respondent

Mr.Abhijeet A. Joshi for Petitioners.

Mr.Arshad Shaikh i/b. D. Brijesh i/b. D. Brijesh for Respondent.

CORAM : S.C. GUPTE, J.

DATE : 10 FEBRUARY 2020

P.C. :

Heard learned Counsel for the parties.

2 The writ petition challenges an order passed by the Industrial Court at Satara in a complaint of unfair labour practice. The complainant before the court, who is the Respondent herein, was the son of late Dattatraya Panchappa Takkalgi, who was working as a senior operator in Maharashtra State Electricity Board (MSEB), now Maharashtra State Electricity Transmission Company Ltd. (MSETCL), who is the Petitioner before this court and who was the Respondent to the complaint. Late Dattatraya died whilst in service on 14 July 2013. According to the complainant, there was a provision for employing dependents of employees expiring whilst in service of MSEB/MSETCL. It was submitted that the complainant was holding a degree of Bachelor of Engineering (Information Science & Engineering) and according to the applicable Rules (CS 28 Rule 5), he was educationally qualified for appointment in IT cadre of MSETCL.

It was his grievance that accordingly he had submitted an application within the requisite period from the death of his father but the Petitioner herein (MSETCL) failed to appoint him in the post of Assistant Programmer (which was a Grade II post). It was submitted that though other candidates having similar qualifications and similarly situated were appointed to the posts of Assistant Programmer, or other Grade II posts, the complainant was discriminated against. The Industrial Court, vide its impugned order, considered in particular the fact that the complainant had the requisite qualification for appointment as Assistant Programmer. The court observed that the notification issued by All India Council for Technical Education, New Delhi, included the course of Engineering and Technology under the sub-caption 'Information Technology' and showed the degree of 'Information Science & Engineering' as an equivalent post of Engineering and Technology under the sub-caption 'Information Technology'. The court observed that this notification was applicable in the present case by virtue of State Government G.R. dated 23 August 2011 (Exhibit U-46 before the court). Based on this assessment, the court was of the view that the Petitioner, MSETCL, had discriminated against the complainant and accordingly, directed the Petitioner MSETCL to appoint the complainant to the post of Assistant Programmer in the IT cadre of MSETCL in open category.

3 Learned Counsel for the Petitioner submits that the equivalence to be considered by the Petitioner herein, who is part of the State, is to be found in the employment advertisement for the post of Assistant Programmer; the educational qualification prescribed was B.E. in Computer Engineering / Information Technology / Computer / Computer Science & Engineering. Learned Counsel submits that the Petitioner is a

Bachelor of Engineering in the subject of Information Science & Engineering and that B.E. in Information Science & Engineering does not come within these educational qualifications.

4 At the outset, it must be noted that this submission is merely on a bare comparison of the nomenclatures of the two courses, namely, B.E. in Computer Engineering / Information Technology / Computer/ Computer Science & Engineering, on the one hand, and the course of B.E. in Information Science & Engineering, on the other. No material such as the career course module or subjects or any other material appears to have been considered whilst negating the equivalence of these educational qualifications. On the other hand, so far as the court's assessment is concerned, it has gone by the equivalence of degrees provided in an AICTE notification. The courses of Computer Science & Engineering and Information Technology include Information Science & Engineering, which is the very course, which the Respondent in the present case has completed. There was, in other words, some concrete material before the court on the basis of which the court could have come to the assessment that it has, namely, that the degree of Information Science & Engineering obtained by the complainant was part of Computer Science & Engineering or Information Technology and had the requisite equivalence.

5 In any event, on these facts, the impugned order of the Industrial Court cannot be termed as perverse or unreasonable. After all, it is supported by some material on record. Though learned Counsel for the Petitioner is right that the equivalence under the AICTE notification was from the point of appointment of teachers and not for appointment of Assistant Programmers, the equivalence under the notification can certainly

be termed as a material circumstance and this supports the complainant's case in the present case. Learned Counsel for the Respondent is right in referring to the equivalence of comparison in the relevant course nomenclatures given in the GR (page 66 of the petition). It is obvious that even this equivalence is premised on the equivalence of degrees for the purpose of teaching courses. It that is so, merely because the particular nomenclature of the complainant's course does not appear in the advertisement, going by simple nomenclature of courses, and in the absence of any proper verification, the Respondent's claim to the appointment, as noted by the Industrial Court, could not have been denied. In the premises, the impugned order of the Industrial Court cannot be found fault with. It is certainly a reasonable and possible order and should not be disturbed on the principles of judicial scrutiny posited under Articles 226 and 227 of the Constitution of India.

6 Learned Counsel for the Respondent refers to Exhibit R (at page 214). It is a public notice by University Grants Commission ('UGC') declaring that equivalence of degrees, diplomas, certificates, etc. is not determined by the UGC; in cases of higher education, it is decided by the university concerned and in cases of employment, promotion, etc., by the employing organization. In the first place, this document was not produced before the trial court; it put on record through an affidavit filed by the Petitioner in the present petition. Secondly, and at any rate, the employing organization here is the State; it surely cannot act arbitrarily in the matter of determining equivalence of degrees. There is no reason when the employing organization does not have its own rules of equivalence and goes by what the Government lays down, and the Government's norms are based on official norms of organizations, such as AICTE, the employer

should not be made to accept such norms.

7 There is, accordingly, no merit in the writ petition. The writ petition is dismissed.

(S.C. GUPTE, J.)