

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3923 of 2021

1. Ramesh Raj Dhruwe S/o Shri Sadar Sai Dhruwe Aged About 35 Years R/o Harrapara, School Road, Village Tamta, Tehsil Patthalgaon, District Jashpur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Higher Education Mantralaya, Capital Complex, Mahanadi Bhawan, New Raipur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Chhattisgarh Public Service Commission Shankar Nagar Road, Bhagat Singh Square Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Examination Controller Chhattisgarh Public Service Commission Shankar Nagar Road, Bhagat Singh Square Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. Deepti Mahilang Through Chhattisgarh Public Service Commission, Shankar Nagar Road, Bhagat Singh Square Raipur Chhattisgarh., District : Raipur, Chhattisgarh
5. Rashmi Kujur Through Chhattisgarh Public Service Commission, Shankar Nagar Road, Bhagat Singh Square Raipur Chhattisgarh., District : Raipur, Chhattisgarh
6. Preeti Singh Through Chhattisgarh Public Service Commission, Shankar Nagar Road, Bhagat Singh Square Raipur Chhattisgarh., District : Raipur, Chhattisgarh
7. Sarla Painkara Through Chhattisgarh Public Service Commission, Shankar Nagar Road, Bhagat Singh Square Raipur Chhattisgarh., District : Raipur, Chhattisgarh

----Respondents

For Petitioners	: Shri Jeet Patel, Advocate.
For State	: Shri Amrito Das, Addl. A.G.
For PSC	: Shri Anand Mohan Tiwari, Advocate.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

29/07/2021

1. Aggrieved by the action on the part of the respondent No. 2 in disqualifying the petitioner for being further considered for the recruitment to the post of Assistant Professor (Information Technology), the present writ petition has been filed.
2. The facts of the case are that the petitioner had applied for the post of Assistant Professor (Information Technology) from the advertisement published on 18.01.2019 and a corrigendum to which thereafter was issued on 23.02.2019. The petitioner in the present writ petition has done MCA course i.e. Master of Computer Application and the petitioner submits that the course that the petitioner has undergone is equivalent to the Masters in the concerned subject required i.e. the subject of Information Technology.
3. According to the counsel for the petitioner the subjects that the petitioner has been taught while undergoing the MCA course are in fact those very subjects which are even taught for the course of Information Technology and therefore, the petitioner is eligible and entitled for being considered for the post of Assistant Professor IT. According to the Counsel for the petitioner, the authorities had initially accepted the candidature of the petitioner and permitted him to participate in the recruitment process and it is only at the stage of documents verification and interview that his candidature has been rejected, therefore, prayed for an appropriate direction for the

authorities to permit the petitioner to be interviewed and he be considered for the said post.

4. The State Counsel as also the learned counsel for the PSC on the other hand submits that since the qualification that the petitioner has, is not one in accordance with the advertisement neither is the subject reflected in the allied subject which have been subsequently notified by corrigendum dated 23.02.2019. It cannot be presumed that the petitioner's qualification is equivalent to that of Master in Information and Technology. It is the specific stands of learned Counsel for the respondents that unless there is an order passed by the State or for that matter by any authority holding that MCA Degree that the petitioner has, is equivalent to an MCA (Information & Technology) it can not be automatically accepted to be equivalent, thus prayed for rejection of the writ petition.
5. Considering the nature of dispute that the petitioner has raised in the present writ petition, it would be relevant to take note of a bunch of writ petitions decided by this Court on 11.09.2014 in WP(S) No. 1750 of 2011 and other connected matters, wherein the Coordinate Bench of this Court in Paragraph 9 to 15 have held as under:-

“9. In the advertisement the PSC has invited applications for the post of AP in Computer Science at serial No. 18; AP in MCA at serial No. 23; and AP in IT at serial No. 31. Thus, it would clearly appear that there is requirement of post of AP in these three disciplines. Had it been a case that all the three subjects are equivalent and inter-changeable, PSC itself, which has advertised the posts based upon its need, would have clubbed these posts together. Thus, the fact that these three subjects are treated as different and distinct from each other definitely suggests that they are not treated as equivalent.

10. Learned Counsel for the petitioners have taken this Court through different curriculum of different universities for making comparison of the contents of the curriculum to convince this Court that the subject of Computer Application or Computer Science is equivalent to IT.
11. Without going into the contents of commenting anything on it, suffice it would be to observe that in umpteen number of cases the Supreme Court observed that it is not within the scope of judicial review to draw equivalence of qualification. Drawing of equivalence of qualifications is essentially the job of experts of the field and it is not for the Court to enter into the arena of comparing two qualification on certain parameters and then to declare equivalence
12. In *State of Rajasthan and Ors. v. Lata Arun* reported in 2002 AIR SCW 2966, the Supreme Court held thus:

“12 From the ratio of the decision noted above, it is clear that prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.”
13. Yet again in *Basic Education Board, U.P. v. Upendra Rai and Ors.* Reported in {2008 3 SCC 432}, the Supreme Court held thus:

“15. Grant of equivalence and /or revocation of equivalence is an administrative decision which is in the sole discretion of the authority concerned, and the Court has nothing to do with such matters. The matter of equivalence is decided by experts appointed by the government, and the Court does not have expertise in such matters. Hence it should exercise judicial restraint and not interfere in it.”
14. Since the recruiting agency has not treated the subject of Computer Application or Computer Science as equivalent to IT, and it has invited applications for the post of Aps in these three subjects separately in the same advertisement and otherwise also, this Court has no jurisdiction or expertise to decide the question of equivalence, this Court is of the considered opinion that there is no merit in WP(S) No. 1750 & 1824 of 2011.
15. As an upshot, WP(S) Nos. 1750 & 1824 of 2011 are liable to be and are hereby dismissed.

6. Given the aforesaid judgment rendered by the Coordinate Bench of this Court in a bunch of writ petitions of similar nature, this Court also is of the firm view that the present writ petition is one which is squarely covered by the said decision and it applies to the facts of the present case also. In view of the same the present writ petition also for the same reason deserves to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
Judge

J-