

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3926 of 2021

1. Manendra Ghrilahare S/o Shri Narayan Prasad Ghrilahare Aged About 30 Years R/o 34/536, LIG Building Bariyakala, Housing Board Colony, Raipur District Raipur Chhattisgarh Pin 492015.
2. Nutan Singh S/o Shri Dev Karan Singh Aged About 28 Years R/o 34/536, LIG Building Bariyakala, Housing Board Colony, Raipur District Raipur Chhattisgarh Pin 492015.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Higher Education Department Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
2. Chhattisgarh Public Service Commission Raipur Through Its Secretary, C.G.P.S.C. Shankar Nagar Road, Bhagat Singh Square, Raipur Chhattisgarh
3. Examination Controller Chhattisgarh Public Service Commission, Shankar Nagar Road, Bhagat Singh Square, Raipur Chhattisgarh.

----Respondents

For Petitioners	: Shri Sumit Singh Rathore, Advocate.
For State	: Ms. Sunita Jain, G.A.
For Respondent-PSC	: Shri Anand Mohan Tiwari, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

28/07/2021

1. Aggrieved by the action on the part of the respondents-PSC disqualifying the petitioners from the further recruitment to the post of Assistant Professor (Botany), the petitioners stand disqualified on account of the petitioners not having the requisite educational qualification required for the post of Assistant Professor (Botany).

2. The brief facts relevant for disposal of the present writ petition are that the petitioner had applied for the post of Assistant Professor (Botany) from the advertisement that was issued on 23.01.2019. The last date of submission of application was 04.02.2019 which was later on further extended to 12.04.2019. As per the advertisement the required educational qualification was :

(iv) आवश्यक शैक्षणिक अर्हताएं:-
(क) अच्छे शैक्षणिक रिकार्ड के साथ किसी भारतीय विश्वविद्यालय से स्नातकोत्तर उपाधि स्तर में संबंधित विषय में कम से कम 55% अंक (अथवा / एवं 7 बिन्दू ग्रेडिंग पद्धति में ग्रेड "बी") अथवा किसी मान्यता प्राप्त विदेशी विश्वविद्यालय से समकक्ष उपाधि।)

3. The Govt. subsequently issued an order on 13.02.2019 notifying the allied subjects to Botany on the basis of which the Public Service Commission issued a corrigendum publishing the allied subjects also so that other eligible candidates also could participate based on the allied subjects. For ready reference the allied subjects for Botany recognized by the State vide its order dated 13.02.2019 and the corrigendum issued by the PSC dated 23.02.2019 are as under:

Subject	Allied subjects
Botany	Micro Biology Bio Technology Environmental Science Forestry Bio Chemistry Bio Informatics Science Genetics Industrial Microbiology Life Science Genetics Engineering

4. The petitioners in the present writ petition have done their Master Degree in Agriculture with plant physiology. The petitioners were permitted to participate in the recruitment process and were also found meritorious in

the examination. Thereafter, they were called upon for documents verification, however in the course of the documents' verification, it was found that the petitioners don't have the Masters Degree in the relevant field, thereby they were declared disqualified.

5. Admittedly, neither in the advertisement nor in the corrigendum issued by which the allied subjects were supplemented for the subject Botany, does not include the subject in which the petitioners have done their Master Degree. Counsel for the petitioners neither in his pleadings nor from any of the documents in support of his writ petition, has been able to show that the Masters Degree in which the petitioners have done their post graduation, is an equivalent subject to the subject so required as per the advertisement or in the corrigendum showing allied subject.
6. Counsel for the PSC submits that rejection of the petitioners or disqualification of the petitioners has been only on the ground of not having proper Masters Degree in the relevant subject. Since the subject also does not fall in the allied subject notified by the PSC, the respondents had no other option but to declare the petitioners disqualified.
7. According to the Counsel for the PSC unless the State Government issues an order accepting the qualification of the petitioners i.e. M.Sc (Agriculture) in Plant Physiology to be eligible for applying for the post of Assistant Professor (Botany) so far as the PSC is concerned, it would have to strictly adhere to the notification and the corrigendum issued and to the subjects notified therein.
8. The Counsel for the PSC submits that there could be large number of other candidates who may not have applied accepting the fact that they don't have the requisite qualification. If the petitioner is to be granted the benefit, those persons would be deprived and the action on the part of the

PSC could be said to be violative of Article 14 under the said circumstances.

9. This court finds enough force in the submissions made by the respondents for the reason that if we look into the advertisement, it would clearly reveal that the advertisement had very categorically specified that mandatory educational qualification was that of Post Graduation in the concerned subject which in the instant case would be Botany with minimum 55 percent marks. The said clause subsequently was further broadened by incorporating certain allied subjects to the subject Botany and those allied subjects are already reproduced in the preceding paragraph.
10. Admittedly, in the corrigendum that was issued on 23.02.2019, M.Sc. (Agriculture) in Plant Physiology is not notified as allied subject. This fact was known to the petitioners all along. The advertisement at the first instance was published on 23.01.2019. The corrigendum was issued in a months time thereafter on 23.02.2019. In spite of that the petitioners took a calculated risk of pursuing for the recruitment process without challenging to the advertisement or for that matter the corrigendum that was subsequently issued on 23.02.2019. That admittedly in the decision of the State Govt. dated 13.02.2019 and also in the corrigendum dated 23.02.2019 nowhere has it been mentioned that M.Sc. (Agriculture) in Plant Physiology would be accepted to be an allied subject to Botany, enabling a candidate to participate in the same.
11. There can be no dispute to the fact that so far as equivalence of qualification is concerned, it is exclusively within the realm of policy

decision of the State Govt. The High Court in exercise of its writ jurisdiction cannot decide the question of equivalence. The petitioner at the first instance itself ought to have challenged the advertisement as also the corrigendum that was issued seeking for incorporating M.Sc. (Agriculture) in Plant Physiology also as one of the allied subjects. Whether a subject has to be accepted or not, so also whether a subject would be equivalent subject to the requisite qualification, the same is exclusively within the power and domain of the Government. The law in this regard stands well settled since long in case of State of Rajasthan and Others Vs. Lata Arun, 2002 (6) SCC 252. The same has further been reiterated in Guru Nanak Dev University Vs. Sanjay Kumar Katwal and Another, 2009 (1) SCC 610 wherein also the Supreme Court has in very categorical terms held that equivalence is a technical academic matter. It cannot be implied or assumed and it was observed that any decision of the academic body of the University relating to equivalence should be by a specific order of resolution duly published. There is no such specific order of resolution duly published in the instant case whereby M.Sc. (Agriculture) in Plant Physiology can be accepted to be an equivalent subject to the subject specified under the advertisement.

12. Given the said facts as narrated in the preceding paragraphs and also the legal position as it stands, this court does not find any strong case made out by the petitioners calling for an interference with the action on the part of the respondents in declaring the petitioners as disqualified for not having requisite qualification.

13. Rejection of the writ petition would not preclude the petitioners from approaching the respondents by way of representation seeking for treating the qualification of M.Sc. (Agriculture) in Plant Physiology also as a subject and bringing the same under the allied subjects for Botany.

14. The writ petition accordingly fails and is dismissed.

Sd/-
(P. Sam Koshy)
Judge

J-