

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 3949 of 2021

1. Ganeshwari Dhurve D/o Shri Bhagwan Singh Dhurve Aged About 28 Years R/o House No. 63, Near Govt. Primary School, Village Jhalmala, Post Chilphi, Tahsil Bodla, District Kabirdham (Chhattisgarh).

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Higher Education Department, Mantralaya Mahanadi Bhawan, Atal Nagar Nava Raipur, District Raipur (Chhattisgarh).
2. Secretary Public Service Commission, Raipur, Shankar Nagar Road, Raipur, District Raipur (Chhattisgarh)

---Respondents

For Petitioner	:	Shri C Jayant K Rao, Advocate.
For State	:	Shri Ayaz Naved, Govt. Advocate.
For Respondent-PSC	:	Shri Anand Mohan Tiwari, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19.08.2021

1. The petitioner in the present writ petition seems to be aggrieved of the decision of the respondents whereby she has been found disqualified from being considered for appointment to the post of Assistant Professor (Zoology).
2. The entire recruitment process began with the advertisement dated 23.01.2019 wherein various post of Assistant Professor for different subjects were advertised. The petitioner was interested for the post of Assistant Professor (Zoology). The requirement under the advertisement is that the candidate should have Masters degree in the concerned subject with minimum 55 percent of marks. Down the line, the respondents issued a corrigendum whereby the allied subjects were added to the various subjects which were put in for recruitment. So far as subject Zoology is concerned, apart from the various other course notified as allied subject to Zoology, one such subject was also that of Bio-Technology.

3. The petitioner herein has done her Master degree in Animal Bio-Technology. She has undergone Master course from the Department of Animal Biology, School of Life Sciences, University of Hyderabad. The said University has issued a certificate whereby it has been categorically held that the course of M.Sc. (Animal Biology and Biotechnology) is equivalent to M.Sc (Zoology).
4. According to the petitioner, she has also cleared the National Eligibility Test (NET) held in the year, 2015 in the subject of Life Science which again is one of the allied subject of Zoology. Moreover, the contention of the petitioner is that the subject in which the petitioner has done her Masters i.e. in Animal Bio-Technology can be brought and treated as equivalent to that of Bio-Technology which has been specifically accepted by the respondents vide their corrigendum to be an allied subject for Zoology. Therefore the oral disqualification of the petitioner is bad in law and the respondents should subject the petitioner for further selection process and consider her on their own merits after treating the petitioner to have all the requisite qualifications for being considered for appointment to the post of Assistant Professor (Zoology).
5. Per contra, the counsel for the State as also for the Public Service Commission submits that the question of equivalence cannot be considered and decided at the fag end of the recruitment when all the selected candidates are being subjected to counseling and interview. Further contention of the respondents are that even if the qualification which the petitioner possesses is accepted to be equivalent, the petitioner cannot be granted advantage in isolation as the said benefit would have to be extended to all the candidates who have Master in Animal-Bio-Technology and who may not have applied under the bonafide belief that they do not possess the requisite qualification.

6. The said ground on which the respondents counsel were opposing the petitioner is that the question of equivalence is not one which can be determined by the High Court in exercise of its writ jurisdiction under Article 226 of the Constitution. The power to decide the equivalence rests with employer i.e. State in this case. Unless there is a specific decision or an order taken from the State Govt. treating the qualification which the petitioner has to be equivalent with any of the subjects reflected in the group of allied subjects or with the main subject of Zoology, the benefit cannot be extended to the petitioner.
7. The State counsel lastly contended that Animal Bio-Technology i.e. the course which the petitioner has undertaken could be one of the subjects within the term Bio-Technology or within the subject Zoology, but the same cannot be treated to be equivalent.
8. 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 Pharmaceutical Biotechnology 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 Animal Biotechnology can be accepted to be an equivalent subject to the subject specified under the advertisement.

9. Given the aforesaid facts and circumstances of the case, this court is of the opinion that since the issue of equivalence is one which has to be decided by the State authorities, the right of the petitioner stands reserved for approaching the respondent No.1 by filing a detailed representation supported with all relevant certificates and documents in support of her contentions claiming for equivalence and the respondent No.1 in turn shall consider and take an appropriate decision on the question of equivalence of the subject in which the petitioner has done her Master course in Animal Bio-Technology or for that matter the course of M.Sc. (Zoology).
10. The respondent authorities are expected to take a decision taking into consideration the certificates and documents which the petitioner shall be submitting along with her representation. Let a decision in this regard be taken at the earliest preferably within a period of 45 days from the date of receipt of copy of this order. The respondent authorities are expected to take an early decision taking note of the fact that order of appointment is yet to be issued by the State authorities.
11. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge