

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP-1302-2019 (O&M)
Reserved on: March 02, 2021

Date of Decision: March 16, 2021

Manoj Kumar

.... Petitioner

Versus

*Post Graduate Institute of Medical Education & Research, Sector 12,
Chandigarh.*

... Respondents

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN,
HON'BLE MR. JUSTICE VIVEK PURI**

Present: Mr. Vikas Chatrath, Advocate,
for the petitioner.

Mr. Vikrant Sharma, Advocate,
for the respondent.

Vivek Puri, J.

The matter has been taken up through Video Conferencing in
the light of Pandemic COVID-19 situation and as per instructions.

The petitioner is seeking the issuance of a writ in the nature of
certiorari for quashing the impugned order dated 26.09.2018 passed by

Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as “Tribunal”).

In pursuance of the advertisement dated 16.04.2016, the petitioner, who belongs to Scheduled Tribes category, had applied for the post of Store Keeper with the respondent. As per the advertisement dated 16.04.2016, the eligibility criteria of the post was specified as following:-

“Essential:

- i) *Bachelor degree in Economics / Commerce / Statistics.*
- ii) *Postgraduate degree / diploma in Material Management from a recognized University / Institute or equivalent.*

Desirable:

Experience in handling stores and record keeping in a store preferably medical or concern of a repute in public or private sector.

OR

- 1. *Degree of a recognized University or equivalent.*
- 2. *Postgraduate degree / diploma in Material Management of a recognized University / Institution.*
- 3. *Three years experience in handling stores, stores preferably medical stores in Govt. Public / Private Sector.”*

The petitioner had passed MBA (Retail Management) and he was declared to be ineligible as per the recruitment rules of the post. The petitioner had submitted an original application before the Tribunal for issuance of directions to the respondent to treat him eligible, but the same has been dismissed vide the impugned order primarily observing that equivalence of educational qualification is purely a technical academic

matter and it has to be considered by the appropriate authority/expert that too by specific order duly published prior to initiation of recruitment process and further the petitioner had himself admitted that he has studied “majority of the subjects that are taught in Post Graduate Degree/ Diploma in Material Management”. As such, it has been concluded that the Post Graduate Degree/Diploma in Material Management is different from Post Graduate Degree / Diploma in Retail Management.

The respondent has put-forth a case to the effect that post of Store Keeper was advertised on 16.04.2016. The petitioner was declared ineligible on 20.01.2017 by the scrutiny committee as he was not having the requisite qualification. The recruitment process has been concluded and the result has been declared. However, after the declaration of the result, the recruitment rules were amended on 26.05.2017 and new advertisement has been issued on 12.10.2020 to fill up the available and vacant posts. The petitioner cannot be considered for the post advertised in the year 2016 as he was ineligible at that point of time.

We have heard learned counsel for the parties and perused the record.

It has been argued by the learned counsel for the petitioner that the petitioner is a degree holder in MBA (Retail Management) and on the basis of the equivalence, he is eligible for the post of Store Keeper. The petitioner has been declared ineligible without referring the matter to an expert committee. Furthermore, the Rules have been amended by the respondent and the eligibility criteria has been prescribed for all MBA degree holders. In such circumstances, it can be fairly assumed that even as

per the version of the respondent, there was equivalence in the degree of MBA held by the petitioner and consequently, all the MBAs have been included in the subsequent amendment. Learned counsel for the petitioner has placed reliance upon the decision rendered by this Court in LPA No. 1110 of 2012, Anju Kumari Vs. State of Haryana and another, decided on 20.09.2012 to argue that the matter is liable to be referred to an expert committee to go into the question of equivalence involved in the present case.

On the contrary, it has been argued by the learned counsel for the respondent that the selection process initiated in the year 2016 has culminated. The petitioner was not having the requisite qualification at that point of time and consequently, the matter was examined by the Scrutiny Committee and the petitioner was declared not eligible as per the recruitment rules of the post. The amendment in the Rules have been carried out at a subsequent stage. After declaration of the result, the Rules were amended on 26.05.2017 and thereafter, a fresh advertisement has been issued on 12.10.2020. As per the new amendment, many other changes have been incorporated which, *inter alia*, include all the MBA Degree holders. However, such an amendment will not enure any benefit to the petitioner and the same cannot be termed to be retrospective in nature. Moreover, the matter with regard to equivalence cannot be considered by the Court as the same pertains to the academic matter and the Courts cannot express any definite opinion thereupon.

Admittedly, the petitioner had applied for the post of Store Keeper in pursuance of the advertisement dated 16.04.2016. It has not been

disputed that the petitioner is MBA (Retail Management) and the eligibility criteria was prescribed as Postgraduate Degree / Diploma in Material Management of a recognized University / Institution. It is pertinent to note that even the 'equivalence' has also been prescribed in the eligibility criteria. The petitioner has been declared ineligible on the score that he could not meet the eligibility criteria as prescribed in the advertisement.

Precisely, the controversy in the instant case is to the effect that as to whether the petitioner is entitled to be considered as eligible for the post on the basis of the equivalence or not.

The learned Tribunal has relied upon a decision in the case of ***Chandrakala Trivedi Vs. State of Rajasthan and others, (2012) 3 SCC, 129*** which lays down that term 'equivalent' is not to be considered as exact. Furthermore, the learned Tribunal has also placed upon decisions in the cases of ***University of Mysore Vs. C.D. Govinda Rao and another, AIR 1965 SC 491, Mohammad Shujat Ali and others Vs. Union of India and others, (1975) 3 SCC 76*** and ***State of Rajasthan and others vs. Lata Arun, (2002) 6 SCC 252*** to hold that the Courts should refrain from expressing any definite opinion about the equivalence in two different academic qualifications.

The learned counsel for the respondent has sought to argue that the matter with regard to the equivalence cannot be considered by the Court as the same is in domain of the experts. In this regard, it may be mentioned here that the matter with regard to the equivalence has to be considered by the expert committee and the Court is not assuming the role of an expert in determining the equivalence in the instant case. The Court can interfere in

the decision of equivalence in the event, the same is shown to be based on extraneous or irrelevant consideration or actuated with mala fide or suffer from perversity or manifestly wrong. However, in the instant case, the matter has not been examined by the expert committee and in such circumstances, it shall be appropriate to refer the matter to the expert committee to determine the equivalence.

It has not been disputed that no candidate in the category in which the petitioner had applied was selected and appointed in pursuance of the advertisement issued in the year 2016 and fresh process for appointment has been initiated.

The determination of equivalence in the instant case assumes substantial significance on account of subsequent development with regard to the amendment in the Rules pertaining to the eligibility criteria prescribed for the post of Store Keeper. Admittedly, the recruitment rules were amended on 26.05.2017 and the eligibility criteria included all the MBA degree holders. The new recruitment rules provide the eligibility criteria as following:-

“Essential:

- 1) *Bachelor degree in Maths / Economics / Commerce / Statistics and*
- 2) *M.B.A. / Postgraduate in Maths / Economics / Commerce / Statistics / Finance from a recognized University with at least 50% marks.”*

Even it has been observed in the impugned order that the petitioner had himself admitted that he has studied “majority of the subjects that are taught in Postgraduate Degree / Diploma in Material Management”

and as such, it was admitted case that Postgraduate Degree / Diploma in Material Management is different from Post Graduate Degree / Diploma in Retail Management. However, this aspect of the version as sought to be put-forth by the petitioner cannot be termed to be sufficient enough to discard his claim for referring the matter to an expert committee, particularly because in the subsequent amendment all the MBA Degrees have been included in the eligibility criteria. Moreover, for working out the equivalence, no mathematical equation has to be drawn. The term 'equivalence' is not to be considered as 'exact'. It has to be seen that if there is a substantial equivalence in the two qualifications, the petitioner becomes entitled to be treated as equivalent. Merely, the difference in the nomenclature cannot be termed to be a ground to deny equivalence. Furthermore, it is not the nomenclature, but the content of the curriculum / syllabus that has to be looked into while determining equivalence.

In these set of circumstances, the respondent is directed to constitute a team of three experts to examine the curriculum / syllabus of the academic qualification of the petitioner vis-a-vis the eligibility criteria prescribed in the advertisement and if it is found that both the courses are broadly and substantially the same, the petitioner be treated as eligible candidate irrespective of the nomenclature of the two courses. The entire exercise in this regard be carried out within a period of two months from the date of receipt of a certified copy of this judgment.

It is further directed that in the event, the petitioner is aggrieved by the decision of the expert committee or in the event, the decision of expert committee is in favour of the petitioner and despite that he is not

considered as an eligible candidate by the respondent, the petitioner shall be at liberty to challenge the said action by filing an appropriate petition in accordance with law.

In the above terms, present petition is disposed of.

[JITENDRA CHAUHAN]
JUDGE

[VIVEK PURI]
JUDGE

March 16, 2021
vkd

<i>Whether speaking/reasoned</i>	:	<i>Yes</i>
<i>Whether reportable</i>	:	<i>Yes</i>