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Writ Petition No.2729 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.2729 of 2024

and

W.M.P.No.3004 of 2024

Gaddam Said Deepthi

... Petitioner

Vs.

1.Oil and Natural Gas Corporation Ltd.
represented by its Chairman and CEO,
Plot No.5A-5B, Nelson Mandela Road,
Vasanth Kunj,
New Delhi - 110 070.

2.The Director (Human Resource),
Oil and Natural Gas Corporation Ltd.
Plot No.5A-5B, Nelson Mandela Road,
Vasanth Kunj,
New Delhi - 110 070.

3.Indian Institute of Technology, Madras
represented by its Director,
IIT P.O., Chennai - 600 036.

... Respondents

Writ Petition filed under Article 226 of the Constitution of



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India seeking issuance of a Writ of Mandamus directing respondents 1 and 2 to appoint the petitioner to the post of Assistant Executive Engineer (Environment) pursuant to the representation of the petitioner dated 31.08.2023.

For Petitioner : Mr.Anand Gopalan
for Mr.A.Umapathy

For Respondents : Mr.Sai Srujan Tayi [R1 & R2]
Mr.S.Karthick Rajan [R3]

ORDER

This writ petition has been filed seeking issuance of a writ of mandamus directing respondents 1 and 2 to appoint the petitioner to the post of Assistant Executive Engineer (Environment).

2. The case of the petitioner is that she hails from the State of Telangana. After completing 12th standard, she jointed IIT Madras in the year 2018. She was admitted into a dual degree programme in the third respondent institution. According to the petitioner, the dual degree programme into which the petitioner was admitted was B.Tech in civil engineering with specialization of environmental engineering in M.Tech. The petitioner completed the programme with CGPA of 6.79 during July



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3. The further case of the petitioner is that the first respondent wanted to fill up the existing vacancies in the ratio of 80:20, i.e., 80% open recruitment and 20% campus placements to the post of Assistant Executive Engineer (Environment). Four vacancies were available. The first respondent approached the third respondent requesting to provide the details of candidates, who can be considered in the campus placement. The third respondent provided a list of two candidates and one of the candidate was the petitioner.

4. The petitioner attended the interview conducted by the ONGC on 18.11.2022. A communication was sent by ONGC to the third respondent to the effect that the petitioner and two others have been empanelled/selected for the mentioned post on terms and conditions as applicable on the date of their joining. It was also stated that formal offer of appointment will be sent directly to the students. This information was conveyed to the petitioner by the third respondent.

5. The petitioner was awaiting for the appointment order and



she did not get the appointment order from ONGC. Only thereafter, the petitioner came to understand that the first respondent did not accept the degree certificate issued by third respondent without including the area of specialization in the master degree certificate. The communication between the parties were going on and the petitioner did not receive any appointment order from respondents 1 and 2. It is under these circumstances, the present writ petition came to be filed before this Court.

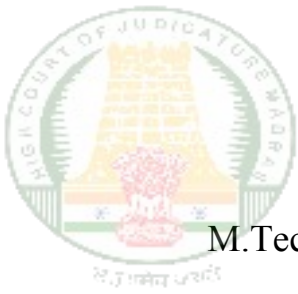
6. The respondents 1 and 2 have filed their counter affidavit. They have taken a very specific stand that the essential qualification that was prescribed is that the candidate must either possess engineering graduation in environmental engineering/environmental science or can be a graduate in engineering discipline with M.Tech or M.E. in environmental engineering/environmental science. The first respondent proceeded further with the interview of the candidates and at the time of verifying the qualifying degree certificate, it was found that the essential qualification of environmental engineering was not mentioned in the degree certificate and it was only mentioned as civil engineering. In view of the same, a clarification was also sought for from the third respondent and the third respondent had stated that the petitioner has done M.Tech in



civil engineering and that she completed all the courses relevant to environmental engineering specialization.

7. It is further stated in the counter affidavit that just because the petitioner had studied a few subjects relating to environmental engineering as a part of dual degree syllabus, that by itself will not qualify the petitioner to the concerned post where the prescribed qualification was Batchelor/Masters degree in environmental engineering. The respondents 1 and 2 have also taken a stand that at the time of basic recruitment for the same post, those candidates with the qualification in civil engineering who applied for AEE (environment) were summarily rejected for want of qualification prescribed under the recruitment norms. In view of the same, respondents 1 and 2 have taken a very specific stand that the petitioner does not possess the essential qualification and hence, the offer of appointment was not issued to the petitioner. Accordingly, they have sought for dismissal of this writ petition.

8. The third respondent has filed a counter. The third respondent has taken a stand that the degree certificates for dual degree programme are issued in the Senate as B.Tech in civil engineering and



M.Tech in civil engineering. This was consistently followed in all departments for other dual degree programmes as well. Pursuant to the decision of the Senate in the 306th meeting, for the civil engineering discipline alone, hence forth, M.Tech degree awarded in the dual degree programme will carry the area of specialization. The third respondent has also taken a stand that the petitioner has undergone the course relevant to environmental engineering. Further, the Head of Department for civil engineering of the third respondent has also issued a bonafide certificate dated 21.07.2023 indicating that the petitioner has a M.Tech specialization in environmental engineering. The third respondent has, in a way, supported the case of the petitioner.

9. Heard Mr.Anand Gopalan, learned counsel for petitioner, Mr.Sai Srujan Tayi, learned counsel for respondents 1 and 2 and Mr.S.Karthick Rajan, learned counsel for third respondent.

10. The essential qualification for appointment to the post of AEE (Environment) is that the candidate must be either an engineering graduate in environmental engineering/environmental science or he can



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be a graduate in engineering discipline with M.Tech/M.E. in environmental engineering/environmental science. It is quite apparent from the counter affidavit filed by respondents 1 and 2 that the first respondent was only looking for candidates who have this specialization and that is the reason why the first respondent had approached the third respondent to conduct the campus selection. In the absence of a candidate possessing this essential qualification, there is no question of considering such a candidate to the post of AEE (Environment). In fact, the first respondent has rejected the candidature of some of the candidates, who participated during the open recruitment and who possessed degree certificates showing the qualification as civil engineering without any mention about environmental engineering.

11. This Court has to see as to whether the petitioner possesses the essential qualification that was prescribed by respondents 1 and 2. The degree certificates that were issued to the petitioner are scanned and reproduced hereunder:



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12. The petitioner has undergone a dual degree programme.

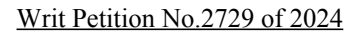


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There is no dispute with regard to the fact that B.Tech degree is in the area of civil engineering. However, the degree certificate reads as if the M.Tech degree is also granted in civil engineering.

13. The third respondent has taken a stand that the degree certificate is issued only in the Senate approved format. However, after the 306th meeting of the Senate, the degree certificate for M.Tech is issued in the following manner:





15. The change in the certificate that is now issued by third respondent, does not involve any change in syllabus. It is confirmed that even now the students who undergoes the dual degree programme go through the same syllabus without any change. Thus, from the side of the third respondent, they have made it clear that the M.Tech specialization is only in environmental engineering.

16. Learned counsel for respondents 1 and 2 submitted that the petitioner does not have the legal right to insist for appointment in this case since no offer letter has been issued to the petitioner and only a letter expressing the intention was issued to the third respondent.

17. To appreciate the above submission made by learned counsel for respondents 1 and 2, this Court has to look into the



communication made by the first respondent to the third respondent. In this communication, the first respondent had informed the third respondent that the petitioner and two others (for each speciality) have been empanelled/selected for the mentioned posts. It is also stated that formal offer of appointment will be directly sent to the students. On carefully reading this communication, it is clear that the first respondent had, in fact, selected the petitioner to the post of AEE (Environment). The first respondent, being a public sector undertaking, cannot cancel the selection except where the candidate is not found to have fulfilled the essential qualification. Therefore, this Court holds that the communication made by first respondent to the third respondent certainly creates a legal right in favour of the petitioner.

18. Learned counsel for respondents 1 and 2 relied upon the judgment of the Apex Court in ***Chief Manager, Punjab National Bank and another v. Anit Kumar Das [(2021) 12 SCC 80]*** and the relevant portions that were relied upon are extracted hereunder:

"17. Even otherwise, prescribing the eligibility criteria/educational qualification that a graduate shall not be eligible to apply was a conscious decision taken by the Bank and the same was as per Circular Letter No. 25 of 2008 dated 6-11-2008. In *J.Ranga Swamy [J. Ranga Swamy v. State of A.P., (1990) 1 SCC 288 : 1990 SCC (L&S) 76]*, it is observed and held



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by this Court that it is not for the court to consider the relevance of qualifications prescribed for various posts.

17.1. In Yogesh Kumar [Yogesh Kumar v. State (NCT of Delhi), (2003) 3 SCC 548 : 2003 SCC (L&S) 346] , it is observed and held by this Court that recruitment to public service should be held strictly in accordance with the terms of advertisement and the recruitment rules, if any. Deviation from the rules allows entry to ineligible persons and deprives many others who could have competed for the post.

17.2. In a recent decision of this Court in Zahoor Ahmad Rather [Zahoor Ahmad Rather v. Imtiyaz Ahmad, (2019) 2 SCC 404 : (2019) 1 SCC (L&S) 353] , this Court has distinguished another decision of this Court in Jyoti K.K. v. Kerala Public Service Commission [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] taking the view that in a case where lower qualification is prescribed, if a person has acquired higher qualifications, such qualification can certainly be stated to presuppose the acquisition of the lower qualifications prescribed for the post. In the said decision, this Court also took note of another decision of this Court in State of Punjab v. Anita [State of Punjab v. Anita, (2015) 2 SCC 170 : (2015) 1 SCC (L&S) 329] , in which case, this Court on facts distinguished the decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] While distinguishing the decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] , it is observed in paras 25 and 26 as under : (Zahoor Ahmad Rather case [Zahoor Ahmad Rather v. Imtiyaz Ahmad, (2019) 2 SCC 404 : (2019) 1 SCC (L&S) 353] , SCC pp. 413-14)

“25. The decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] has been considered in a judgment of two learned Judges in State of Punjab v. Anita [State of Punjab v. Anita, (2015) 2 SCC 170 : (2015) 1 SCC (L&S) 329]. In that case, applications were invited for JBT/ETT qualified teachers. Under the rules, the prescribed qualification for a JBT teacher included a Matric with a two years' course in JBT training and knowledge of Punjabi and Hindi of the Matriculation standard or its equivalent. This Court held that none of the



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respondents held the prescribed qualification and an MA, MSc or MCom could not be treated as a “higher qualification”. Adverting to the decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] , this Court noted that Rule 10(a)(ii) in that case clearly stipulated that the possession of a higher qualification can presuppose the acquisition of a lower qualification prescribed for the post. In the absence of such a stipulation, it was held that such a hypothesis could not be deduced : (Anita case [State of Punjab v. Anita, (2015) 2 SCC 170 : (2015) 1 SCC (L&S) 329] , SCC p. 177, para 15)

‘15. It was sought to be asserted on the basis of the aforesaid observations, that since the private respondents possess higher qualifications, then the qualification of JBT/ETT, they should be treated as having fulfilled the qualification stipulated for the posts of JBT/ETT Teachers. It is not possible for us to accept the aforesaid submission of the learned counsel for the private respondents, because the statutory rules which were taken into consideration by this Court while recording the aforesaid observations in Jyoti K.K. case [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664], permitted the aforesaid course. The statutory rule, in the decision relied on by the learned counsel for the private respondents, is extracted hereunder : (SCC p. 598, para 6)

“6. Rule 10(a)(ii) reads as follows:

10. (a)(ii) Notwithstanding anything contained in these Rules or in the Special Rules, the qualifications recognised by executive orders or Standing Orders of Government as equivalent to a qualification specified for a post in the Special Rules and such of those higher qualifications which presuppose the acquisition of the lower qualification prescribed for the post shall also be sufficient for the post.”

A perusal of the Rule clearly reveals that the possession of higher qualification would presuppose the acquisition of the lower



qualification prescribed for the posts. Insofar as the present controversy is concerned, there is no similar statutory provision authorising the appointment of persons with higher qualifications.'

26. We are in respectful agreement with the interpretation which has been placed on the judgment in *Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664]* in the subsequent decision in *Anita [State of Punjab v. Anita, (2015) 2 SCC 170 : (2015) 1 SCC (L&S) 329]*. The decision in *Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664]* turned on the provisions of Rule 10(a)(ii). Absent such a rule, it would not be permissible to draw an inference that a higher qualification necessarily presupposes the acquisition of another, albeit lower, qualification. The prescription of qualifications for a post is a matter of recruitment policy. The State as the employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. Similarly, equivalence of a qualification is not a matter which can be determined in exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the State, as the recruiting authority, to determine. The decision in *Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664]* turned on a specific statutory rule under which the holding of a higher qualification could presuppose the acquisition of a lower qualification. The absence of such a rule in the present case makes a crucial difference to the ultimate outcome. In this view of the matter, the Division Bench [*Imtiyaz Ahmad v. Zahoor Ahmad Rather [Imtiyaz Ahmad v. Zahoor Ahmad Rather LPA (SW) No. 135 of 2017, decided on 12-10-2017 (J&K)]*] of the High Court was justified in reversing the judgment [*Zahoor Ahmad Rather v. State of J&K [Zahoor Ahmad Rather v. State of J&K, 2017 SCC OnLine J&K 936]*] of the learned Single Judge and in coming to the conclusion that the appellants did not meet the prescribed qualifications. We find no error in the decision [*Imtiyaz Ahmad v. Zahoor Ahmad Rather*



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[Imtiyaz Ahmad v. Zahoor Ahmad Rather LPA (SW) No. 135 of 2017, decided on 12-10-2017 (J&K)]] of the Division Bench.”

(emphasis in original)

That thereafter it is observed in para 27 as under : (SCC p. 415)

“27. While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The State is entrusted with the authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision-making. The State as a public employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these are essentially matters of policy. Judicial review must tread warily. That is why the decision in *Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664]* must be understood in the context of a specific statutory rule under which the holding of a higher qualification which presupposes the acquisition of a lower qualification was considered to be sufficient for the post. It was in the context of specific rule that the decision in *Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664]* turned.”

17.3. Thus, as held by this Court in the aforesaid decisions, it is for the employer to determine and decide the relevancy and suitability of the qualifications for any post and it is not for the courts to consider and assess. A greater latitude is permitted by the courts for the employer to prescribe qualifications for any post. There is a rationale behind it. Qualifications are prescribed keeping in view the need and interest of an institution or an industry or an establishment as the



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case may be. The courts are not fit instruments to assess expediency or advisability or utility of such prescription of qualifications. However, at the same time, the employer cannot act arbitrarily or fancifully in prescribing qualifications for posts. In the present case, prescribing the eligibility criteria/educational qualification that a graduate candidate shall not be eligible and the candidate must have passed 12th standard is justified and as observed hereinabove, it is a conscious decision taken by the Bank which is in force since 2008. Therefore, the High Court has clearly erred in directing the appellant Bank to allow the respondent-original writ petitioner to discharge his duties as a Peon, though he as such was not eligible as per the eligibility criteria/educational qualification mentioned in the advertisement."

19. In the above judgment, the Apex Court in categorical terms has held that the prescription of a qualification for a post is a matter for recruitment policy. When a higher qualification is prescribed, the Court should not venture into finding out whether a different qualification is equivalent to the qualification that is fixed by the recruitment agency. It was held that the Courts are not fit to assess the expediency or advisability or utility of such prescription of such qualification made by the employer.

20. In the instant case, this Court is not attempting to find out from the degree certificate as to whether the petitioner has fulfilled the qualification prescribed by respondents 1 and 2. This Court has only taken into account the specific stand that has been taken by the third



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respondent in this regard. The third respondent is a reputed institution and the stand taken by them must be necessarily acted upon. This Court has already recorded the fact that the third respondent has supported the case of the petitioner and has also categorically stated that the petitioner has a M.Tech specialization in environmental engineering. Unfortunately, it was not specifically mentioned in the M.Tech certificate. What is important is not to get caught with the form of the certificate and it is very important to look at the essence of it. The essence of M.Tech certificate issued by the third respondent is that the petitioner has M.Tech specialization in the environmental engineering. This position has now been confirmed by the latest decision taken by the Senate regarding the format of the M.Tech certificate, which has been scanned and reproduced supra.

21. In view of the above, this Court holds that the petitioner is possessing the essential qualification prescribed by the first respondent and therefore, she is entitled to be appointed to the post of Assistant Executive Engineer (Environment). When this writ petition was entertained, this Court passed an interim order on 08.02.2024 directing the respondents 1 and 2 to keep one post of AEE (Environment) vacant.



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In view of the same, since this Court is inclined to allow this writ petition, the petitioner can be provided with the appointment to the post of Assistant Executive Engineer (Environment) which was kept vacant.

In the result, this writ petition is allowed and there shall be a direction to respondents 1 and 2 to appoint the petitioner to the post of Assistant Executive Engineer (Environment). This process shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

22.08.2024

Neutral Citation: Yes
Index: yes
Speaking Order
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To

- 1.The Chairman and CEO,
Oil and Natural Gas Corporation Ltd.
Plot No.5A-5B, Nelson Mandela Road,
Vasanth Kunj, New Delhi - 110 070.
- 2.The Director (Human Resource),
Oil and Natural Gas Corporation Ltd.



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Plot No.5A-5B, Nelson Mandela Road,
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3.The Director,
Indian Institute of Technology, Madras
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N.ANAND VENKATESH, J

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