



2024:DHC:6873



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 12th August, 2024

+ W.P.(C) 11095/2024 and CM APPL. 45874/2024

KUSUM SHARMA

.....Petitioner

Through: Mr. Mrityunjai Singh, Advocate.

versus

FOOD CORPORATION OF INDIA

.....Respondent

Through: Ms. Ekta Choudhary, Mr. Divyank
Dutt Dwivedi, Ms. Aditi Sharma and Mr.
Dipanshu Yadav, Advocates.**CORAM:****HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J. (ORAL)**

1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of Constitution of India seeking quashing of email communication dated 22.05.2024 issued by the Respondent/Food Corporation of India ('FCI'), rejecting the candidature of the Petitioner to the post of AG-III (Hindi) as also for issuance of writ of *mandamus* directing the Respondent to consider the candidature of the Petitioner against the vacant post of AG-III (Hindi) in FCI, accepting the educational qualifications of the Petitioner as valid.
2. Issue notice.
3. Ms. Ekta Choudhary, learned counsel accepts notice on behalf of the Respondent.



2024:DHC:6873



4. With the consent of the learned counsels for the parties, writ petition is taken up for final hearing.
5. As per the averments in the writ petition, Petitioner is a holder of a degree in B.Sc. (Bachelors in Science) with English as part of curriculum, from Kurukshetra University in the years 2010-13. Petitioner avers that on learning of the requirement of the post such as the one in question, she enrolled herself in a full degree course in the same University for the years 2019-2021 taking English and Hindi (Elective) as additional subjects. Meanwhile, in May, 2018, Petitioner also completed PG Diploma in translation (Hindi/English).
6. It is averred that an Advertisement No.01/2022 was issued by FCI for Zone-wise recruitment of Non-Executives in FCI, which included the post of AG-III (Hindi). As per the Advertisement, the requisite educational qualification was '*Degree of a recognized University with Hindi as main subject*'. The footnote provided that '*Hindi should be main subject in every year of graduation*'.
7. Petitioner applied for the post of AG-III (Hindi) on 09.09.2022. Written examination was held on 01.01.2023 and after clearing the first round, Petitioner undertook the second round of written test on 05.03.2023 and after successfully clearing the same, was placed at Serial No.15 in the waitlist. On 02.08.2023, Petitioner was called for document verification and in view of certain clarifications sought, she undertook to file copy of a B.A. Degree in Hindi. A detailed written representation was also made to this effect on 06.08.2023 but there was no response.
8. On 06.05.2024, Petitioner received information under the Right to Information Act, 2005 that her candidature had been rejected. On



2024:DHC:6873



10.05.2024, a detailed representation was sent to FCI to take a sympathetic view taking into consideration the three years degree in Hindi as additional subject which the Petitioner had acquired after B.Sc. Getting no favourable response, Petitioner has approached this Court.

9. Learned counsel for the Petitioner submits that FCI has arbitrarily rejected the candidature of the Petitioner without appreciating that Petitioner had cleared all the three years' examinations of additional subjects i.e. Hindi (Elective) and English, studying as a private student in continuity of B.Sc degree in Kurukshetra University. Petitioner was repeatedly asked to produce a B.A. degree in Hindi which she was unable to as she had not applied for B.A. degree while pursuing the additional subjects. Petitioner was wrongly disqualified despite fulfilling the educational qualifications stipulated in the advertisement having studied Hindi in three years of the course, post the Bachelors degree in Science. Division Bench of this Court in a judgment delivered in ***Baboo Lal Sharma v. Govt. of NCT of Delhi & Ors., 2015 SCC OnLine Del 12848***, has held that a three years course in an additional subject is equivalent to a degree. It was observed by the Court that since the Petitioner had undertaken study of Sanskrit language for all parts in the B.A. additional course, it was a relevant factor for consideration of his eligibility, as mentioned in the Recruitment Rules and that acquisition of a Post-Graduate Degree in Sanskrit renders the Petitioner even better qualified to teach in the position than a person with a mere graduate degree.

10. It is further urged that FCI failed to appreciate that Petitioner had already completed her graduation in B.Sc. and had no option but to take up Hindi as an additional subject to be eligible for the post and it was not any unrecognized course but a full-fledged course with Hindi as the subject



2024:DHC:6873



albeit additional. The fact that FCI did not pass a written order rejecting the candidature of the Petitioner shows that it did not have anything to defend.

11. Learned counsel for the FCI submits that the Advertisement clearly stipulated that for the post of AG-III (Hindi), a candidate was required to possess a degree from a recognized University with Hindi as main subject and it was categorically mentioned in the footnote that Hindi should be main subject in every year of graduation. Admittedly, Petitioner only has a B.Sc. degree and does not possess degree in Hindi as main subject and in fact, at the time of document verification, Petitioner had herself written a letter addressed to the General Manager, Personnel Division including Recruitment, North Zone, Food Corporation of India that she does not possess a B.A. degree in Hindi and had studied Hindi as an additional subject in a three-year course, which cannot be equated with a degree in Hindi.

12. It is further submitted that even till date, Petitioner is unable to produce a graduation degree with Hindi as the main subject in every year of graduation and her candidature was rightly rejected being ineligible. It is also urged that Advertisements are issued in consonance with the Recruitment Rules of the advertised posts and this Court exercising power of judicial review cannot be called upon to re-write the advertisement stipulating essential educational qualifications which would match the Petitioner's qualifications. It is settled that if any candidate does not possess the essential qualifications of a post, his candidature cannot be accepted.

13. Heard learned counsels for the parties and examined their contentions.

14. The short point that arises for consideration in this writ petition is whether the Petitioner was eligible for appointment to the post of AG-III



2024:DHC:6873



(Hindi) for which applications were invited by Advertisement No.01/2022 by FCI. There is no dispute that as per the Advertisement, which is in consonance with the Recruitment Rules, the essential educational qualification was as follows:

AG-III (Hindi)	H	<i>*Degree of a recognised University with Hindi as main subject. Proficiency in English specifically for the purpose of translation. Certificate/Diploma course in translation from English to Hindi and vice-versa of at least one year duration from a recognised University/Institution approved by Government.</i> <i>Given the fact that the major work of Assistant Grade-III (Hindi) would be translation from English to Hindi and vice-versa, possession of Skill for Hindi Typing would also be required. To assess the same, Hindi Typing with speed of 30 words per minute will be tested during the period of probation. Confirmation of probation shall be subject to the candidate qualifying the prescribed Typing Test.</i>
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**Hindi should be main subject in every year of graduation."*

15. It cannot be disputed by the Petitioner that to be eligible, a degree was required from a recognized University with Hindi as the main subject in every year of graduation. Petitioner admittedly does not possess a Degree in Hindi as the main subject but predicates her right on a course undertaken by her post the Bachelors Degree in Science. Petitioner studied Hindi as an additional subject in a three-years course, which she undertook after the B.Sc. Degree and this course cannot be equated with a Degree in Hindi. In fact, this was also the understanding of the Petitioner herself when she wrote to FCI that she had not applied for a B.A. degree while pursuing additional subjects in Hindi and so the question of producing the same did not arise. One such letter has been placed by the Petitioner herself on record and relevant part is extracted hereunder:



2024:DHC:6873



"1) I have completed my graduation in Bachelor of Science in 2013. Then I completed Post Graduate Diploma in Translation (Hindi / English) in 2018. After that I cleared all the three years exams (i.e. 1st year, 2nd year and 3rd year) of Additional Subjects i.e. Hindi (elective) and English studying as Private Student in continuity of my Bachelor of Science degree as per the provisions of Kurukshetra, University, Kurukshetra in 2022.

At the time of document verification, I was asked to produce the degree of BA by the officials. Although it was clearly mentioned on the detail mark card of additional subjects i.e., Hindi (elective) and English as "Additional Subjects".

So it is quite evident and beyond doubt that for additional subjects, University does not provide any further graduation degree.

Moreover I have never applied for BA degree while pursuing additional subjects. Instead I have cleared Hindi (elective) and English as additional subjects in continuity of my Bachelor of Science under same university registration No. 10-RK.-2014 as per the provisions of University.

So the question of producing BA degree docs not stand Right.

The minimum Educational Qualification for the post of AG III (Hindi) is "Degree of a recognized University with Hindi as main subject. Proficiency in English specifically for the purpose of translation. Certificate/Diploma course in translation from English to Hindi and vice-versa of at least one year duration from a recognized University/institution approved by Government"

The said educational qualification are fulfilled by me.

2) I am also attaching herewith the complete Application Form as downloaded from <https://ibpsonline.ibps.in/lfcineaug22/>

Here by I request you to kindly accept my candidature for AG III (Hindi)."

16. Once the Petitioner lacks the essential educational qualification, she cannot claim appointment to the post of AG-III (Hindi) by calling upon this Court to equate the three-year course with Hindi as additional subject to a graduation degree in Hindi. It is no longer *res integra* that in matters of academic standards and required educational qualifications etc. for appointments, Courts should not ordinarily interfere and/or interpret the rules or advertisements and these matters are best left to the experts in the



2024:DHC:6873



field. [Ref.: *University of Mysore and Another v. C.D. Govinda Rao and Another*, AIR 1965 SC 491; *Shirish Govind Prabhudesai v. State of Maharashtra and Others*, (1993) 1 SCC 211; and *Medical Council of India v. Sarang and Others*, (2001) 8 SCC 427]. A similar issue arose before the Supreme Court in *Ganapath Singh Gangaram Singh Rajput v. Gulbarga University represented by its Registrar and Others*, (2014) 3 SCC 767, wherein the Supreme Court observed that where the language of the advertisement is clear and explicit and does not admit any ambiguity, it has to be given effect to. Since the Appellant therein did not possess the Master's degree in Computer Application which was the stipulation in the advertisement, he was not entitled to be considered for appointment as a Lecturer in MCA. In view of the principles elucidated by the Supreme Court in these judgments, this Court is unable to accept the contention of the Petitioner that the three-year course undertaken by her with Hindi as additional subject be equated with a degree in Hindi as main subject in every year of graduation, which is the essential educational qualification required in the advertisement in question.

17. Insofar as the judgment relied upon by the Petitioner in the case of *Babloo Lal Sharma (supra)* is concerned, the same is wholly inapplicable to the present case. As the facts of the said case indicate, Petitioner therein was seeking appointment as a Teacher to the post of TGT (Sanskrit) and the essential eligibility criteria was Bachelor's Degree (Hons./Pass) or equivalent from any recognized University with 45% marks in aggregate. Petitioner had 44.27 marks in his Bachelors Degree, which were treated below the requisite criteria of 45% marks. Petitioner had acquired a Post-Graduate Degree in Sanskrit language and sought to treat his experience on



2024:DHC:6873



the basis of the PG Degree, claiming himself to be better qualified than a person who had studied Sanskrit in an under-graduate Degree course. It is in this context that the Division Bench held that Petitioner had undertaken study of Sanskrit language for all parts in the B.A. additional course, which was a relevant factor for consideration of his eligibility as mentioned in the Recruitment Rules. The Division Bench held that acquisition of PG Degree in Sanskrit rendered the Petitioner better qualified to teach than a person with a mere Graduate Degree. Additionally, reliance was placed by the Court on a Notification issued by Government of NCT of Delhi regarding the method of recruitment and qualifications necessary for appointment to the post of TGT (Sanskrit), wherein it was provided that the requirement of minimum of 45% marks in the aggregate will be relaxable in case of those candidates who had a Post-Graduate qualification in Modern Indian language. In view of these two factors, the Division Bench upheld the claim of the Petitioner for appointment to the post of TGT (Sanskrit). Quite contrary to the said case, in the present case, Petitioner admittedly does not possess a Degree in Hindi and the judgment cannot aid her for seeking appointment to the post of AG-III (Hindi). The impugned action of FCI, rejecting the candidature of the Petitioner, cannot be faulted with.

18. Petition is accordingly dismissed. Pending application also stands disposed of.

JYOTI SINGH, J

AUGUST 12, 2024/DU/kks/shivam