

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2289 of 2019

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Sanjeev Kumar Son of Krishna Murari Prasad, Resident of Mohalla- Ward No. 1, Janki Sthan- Bari Bazar, Bhabdepur- Sitamarhi, P.S. and District- Sitamarhi.

..... Petitioner/s

Versus

1. The State of Bihar and Ors through the Principal Secretary, Scinence and Technology Department, Bihar, Patna.
2. The Chairman, Bihar Public Service Commission, Patna.
3. The Examination Controller, Bihar Public Service Commission, Patna.

..... Respondent/s

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Quashing of merit list – Qualification for Appointment – High Court in exercise of jurisdiction under article 226 of the Constitution of India cannot assume an equivalence of curriculum for equating the qualification possessed by candidate with that as required under advertisement – expert body, either the employer or the commission appointed in that regard can take decision in the matter of equivalence of curriculum/education qualification – prescribed eligibility qualification for admission to course or for recruitment is to be considered by the appropriate authority and not by the courts – matters of education must be left to educationists – prescription of qualifications as eligibility for a post is a matter of state or employer and is not part of the role or function of judicial review to expand upon the ambit of the prescribed qualification – equivalence of educational qualification does not fall within the jurisdiction of the courts under articles 226 or 227 of the Constitution of India and has to be decided by the expert body or the body of academicians qualified for such job.

Cases relied upon:

- i 2019 (3) PLJR 915 (Jitendra Kumar & Ors. vs. The State of Bihar through the Chief Secretary & Ors.)

Cases referred:

- i A.I.R. 1974 SC 1631 (Mohd. Sujat Ali vs. Union of India & Ors.)
- ii (2002) 6 SCC 252 (State of Rajasthan vs. Lata Arun)
- iii (2021) 12 SCC 390 (Anand Yadav & Ors. vs. The State of Uttar Pradesh & Ors.)
- iv (2019) 2 SCC 404 (Zahoor Ahmad & Ors. vs. Sheikh Imtiyaz Ahmad)

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Appearance :

For the Petitioner/s	:	Mr. Abhimanyu Deo, Adv. Mr. Yogendra Prasad Sinha
For the Respondent/state :		Mr. Sanjee Kumar Sinha, AC to AAG 6
For the B.P.S.C.	:	Mr. Sanjay Pandey, Adv. Mr. Nishant Kumar Jha, Adv.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 02-02-2024

1. The present writ application has been filed for quashing the final merit list dated 23.01.2018 as contained in Annexure-10 in which the name of the petitioner was not included and his candidature stood cancelled on the ground that the petitioner was not having the requisite qualification for appointment. The petitioner has further prayed for a direction to the respondents to appoint him as an Assistant Professor in the faculty of Computer Engineering / Computer Science under Science and Technology Department as per the Advertisement No. 23 / 2014.



2. The brief facts giving rise to the present case is that in pursuance of Advertisement No. 23/2014 published by the B.P.S.C. for appointment of Assistant Professor in the subject of Computer Engineering / Computer Science in various engineering colleges under the Department of Science and Technology. The petitioner applied for appointment to the said post. As per the terms of advertisement, the requisite qualification for appointment was prescribed as B.E. / B.Tech. & M.E./ M.Tech. in relevant branch with First Class or equivalent either in B.E./B.Tech. or M.E./M.Tech. The petitioner was having the qualification of M.Tech. in Computational & Systems Biology. The B.P.S.C. scrutinized the applications and certificates of the candidates. The B.P.S.C. on 15-10-2015 published a notice stating that the list of eligible candidates / provisionally eligible candidates and ineligible candidates has been published on the website of the B.P.S.C. and Admit Card would be issued in favour of eligible candidates and provisionally eligible candidates and in case any ineligible candidate is aggrieved, then he may file objection along with his educational certificates. The name of the petitioner was in the list of ineligible candidates and accordingly he filed an objection with relevant documents. The B.P.S.C. after



considering the objections declared the petitioner provisionally eligible and Admit Card was issued to the petitioner for appearing in the written examination having Roll No. 230347.

3. The petitioner appeared in the written examination held on 28.11.2015. Result was published on 20.04.2016 in which the petitioner was declared successful. He was called for interview on 12.07.2017 along with all the original documents. He appeared in the interview and submitted all documents before the concerned authority. The final merit list was published on 23.01.2018 in which name of the petitioner did not find place as it has been stated therein that the candidature of petitioner and one another candidate has been cancelled in view of the letter no. 2558 dated 14.09.2017 of the Science and Technology Department which says that M.Tech. Certificate of the petitioner is not relevant for the post of Assistant Professor advertised for the subject of Computer Engineering / Computer Science.

4. Learned counsel for the petitioner argued that B.P.S.C. after examining the application and verifying the certificates and other documents of the petitioner issued Admit Card for appearing in the written test as well as interview but arbitrarily his name did not find place in the final merit list and his



candidature has been cancelled taking a false plea that M.Tech. Certificate of the petitioner is not relevant for the post of Computer Engineering / Computer Science.

5. On the other hand, learned counsel for the B.P.S.C. argued that in clause -5 of the interview letter and clause -8 of the Admit Card it is specifically mentioned that the candidature of the candidate called in for examination / interview is fully provisional. Only appearance in the interview does not confirm the candidature and the Commission has reserved its right to take necessary decision after verification of relevant certificates. The Commission provisionally allowed the candidature of the petitioner, gave chance to him to appear in the written examination because the Commission did not want to do injustice with any candidate at the preliminary / written examination level. The B.P.S.C. after considering the fact that the degree / qualification of some of the candidates are contrary to the advertisement took advice from the Department of Science and Technology vide letter no. 1390 dated 06-09-2017 regarding validation of certain M.Tech. degrees including the M.Tech. degree of the petitioner i.e. M.Tech. Computational & System Biology. The Department in compliance with the aforesaid letter constituted Four Men Experts Committee



comprising (i) Sri Niraj Kumar, Assistant Professor (Science / Engineering) the then Nalanda Engineering College, Chandi (ii) Dr. Nityanand Prasad (Electronics and Communication Engineering) the then Joint Director, Science and Technology Department, Government of Bihar (iii) Dr. Fakhruddin Ansari (Electrical Engineering) the then Principal, Engineering College, Katihar and (iv) Dr. R.C. Prasad (Electrical Engineering) Principal, Engineering College, Motihari. The Committee submitted their report on 13.09.2017 and as per the opinion of the Experts Committee, the Science & Technology Department vide its letter no. 2258 dated 14-09-2017 communicated the Commission that M.Tech. Course in Computational and Systems Biology is not relevant degree for appointment against the advertised post of Assistant Professor in the subject of Computer Engineering / Computer Science.

6. On the basis of the said letter of the Science & Technology Department, the Commission in its meeting held on 23.01.2018 decided to declare the petitioner ineligible having not meeting the requisite qualification. The Commission has acted as per the Rules and Regulations formulated by the Department of Science & Technology. He relies upon Division Bench judgment of this court reported in 2019 (3) PLJR 915



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7. Learned counsel for the State argued that vide notification bearing memo no. 37-3 dated 22.01.2010 the concerned authorities under the All India Council for Technical Education (in short "AICTE") laid down the pay scale, service conditions and qualifications for teachers and other academic staffs in technical institutions. The notification says that the requisite educational qualification for appointment against the post of Assistant Professor in the subject of Engineering Technology shall be B.E. / B.Tech. and M.E. / M.Tech. in relevant branch with First Class or equivalent either in B.E./B.Tech. or M.E. / M.Tech. The advertisement for appointment has been issued in the light of this notification. Further notification issued by A.I.C.T.E. dated 28/04/2017 says that major / core branch where relevant / appropriate courses leading to degree in engineering / technology, U.G., P.G. for recruitment as teacher has been prescribed and no where Master Degree in the subject of Computational and Systems Biology has been demarcated / considered as the relevant / appropriate P.G. degree for the subject of Computer Science / Computer Engineering, as such, M.Tech. degree of the petitioner in the



subject of Computational and Systems Biology is not a relevant degree for appointment against the post of Assistant Professor in the subject of Computer Science / Computer Engineering.

8. The minutes of the meeting dated 13.09.2017 of the Experts Committee constituted by the Science and Technology Department for considering the relevance of various degrees including *inter alia* the degree of the petitioner records that the Experts Committee arrived at conclusion that the M.Tech. degree in the subject of Computational and Systems Biology is not the relevant degree for appointment on the post of Assistant Professor in the subject of Computer Engineering / Computer Science in various engineering colleges of the State.

9. I have heard learned counsel for the parties and have gone through the materials on record including the advertisement. The requisite qualification as per the advertisement for appointment on the post of Assistant Professor of Computer Engineering / Computer Science prescribed in the advertisement is B.E./B.Tech. and M.E./M.Tech. in relevant branch with First Class or equivalent either in B.E. / B.Tech. or M.E./ M.Tech. The petitioner is having M.Tech. degree in the subject of Computational & Systems Biology. Now the question which requires consideration is as to whether M.Tech. degree of



the petitioner in Computational & Systems Biology is the requisite qualification for appointment on the advertised post. The petitioner was declared provisionally eligible for taking the examination however his name did not find place in the final merit list on the ground that the petitioner is not having the requisite qualification for the post and the M.Tech. degree in Computational & Systems Biology is not equivalent to the educational eligibility criteria prescribed in the advertisement. A Four Men Experts Committee was constituted by the Science and Technology Department to decide this issue and the Experts Committee arrived at the conclusion that M.Tech. Course in Computational and Systems Biology is not a relevant degree for appointment on the post of Assistant Professor in the subject of Computer Engineering / Computer Science.

10. A Division Bench of this Court in the case of Jitendra Kumar (Supra) has held that High Court in exercise of jurisdiction under Article 226 of the Constitution of India cannot assume an equivalence of curriculum for equating the qualification possessed by candidate with that as required under advertisement. It is for the expert body i.e. either the employer or the Commission to take decision in the matter for deciding such equivalence.



11. The Hon'ble Supreme Court in the judgment reported in A.I.R. 1974 SC 1631 Mohd. Sujat Ali versus Union of India has held that the questions in regard to equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standard, practical attainments of such qualifications and where the decision of the Government is based on the recommendation of an expert body which possesses the requisite knowledge, skill and expertise for adequately discharging such a function, the court, uninformed of relevant data and unaided by the technical insights necessary for the purpose of determining equivalence would not likely disturb the decision of the Government".

12. In (2002) 6 SCC 252 (State of Rajasthan *versus* Lata Arun), the Hon'ble Apex Court has held that prescribed eligibility qualification for admission to course or for recruitment is to be considered by the appropriate authority and it is not for courts to decide whether a particular educational qualification should or should not be equivalent to be the accepted qualifications prescribed by the authority.

13. In yet another judgment reported in (2021) 12 SCC 390 (Anand Yadav And Others versus State of Uttar Pradesh), the Hon'ble Supreme Court has held that matters of education



must be left to educationists. It is not the function of the Court to sit as an expert body over the decision of the experts.

14. In an another judgment reported in (2019) 2 SCC 404 *Zahoor Ahmad & Orthers versus Sheikh Imtiyaz Ahmad* the Supreme Court has held that 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. 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 acquisition of a qualification. The State is entrusted with the authority to assess the needs of its public services.

15. Now, it is well settled law that the question of



equivalence of educational qualification does not fall within the jurisdiction of the Courts under Articles 226 or 227 of the Constitution of India and has to be decided by the expert body or the body of academicians qualified for such job. This Court while exercising jurisdiction under Article 226 of the Constitution of India cannot hold one educational qualification to be equivalent to other qualification inasmuch as the same is not within the scope of judicial review to draw equivalence of qualification. The Court does not have the expertise to enter into the field of comparing two qualifications much less dare to declare equivalence.

16. In the present case the educationists / academicians were included in the Experts Committee which examined the qualification of the petitioner *vis a vis* the qualification prescribed in the advertisement. Upon proper deliberation the Experts Committee arrived at the conclusion that the qualification possessed by the petitioner i.e. M.Tech. in Computational & Systems Biology is not the relevant / equivalent degree for appointment against the advertised post.

17. Thus, after having examined the facts and legal position on the point of equivalence of qualification in exercise of jurisdiction under Article 226 of the Constitution of India and



taking note of the fact that the Experts Committee has entered into the arena of qualification possessed by the petitioner and the prescribed qualification in the advertisement and has concluded that petitioner is not having the requisite qualification as per the advertisement, as such, I find no illegality in the decision of the B.P.S.C. in cancelling the candidature of the petitioner.

18. Accordingly, the application is dismissed.

(Anil Kumar Sinha, J)

praful/-AFR

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	14-03-2024
Transmission Date	NA

