



NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S). 4468 OF 2013

SHIFANA P.S.

....APPELLANT(S)

VERSUS

**THE STATE OF KERALA
AND OTHERS**

....RESPONDENT(S)

J U D G M E N T

Mehta, J.

1. Heard.
2. The instant appeal by special leave is directed against the judgment dated 16th October, 2012, rendered by the Division Bench of the High Court of Kerala at Ernakulam whereby OP(KAT) No. 3407 of 2012 preferred by the appellant was dismissed and the order dated 19th June, 2012, passed by the Kerala Administrative Tribunal, Thiruvananthapuram(hereinafter being referred to as the 'Tribunal') dismissing O.A. No. 370 of 2012 preferred by the appellant, was affirmed.

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Facts in a nutshell relevant and essential for the disposal of the instant appeal are noted herein below.

4. The Kerala Public Service Commission(hereinafter being referred to as the 'KPSC') invited applications for the posts of High School Assistant(Physical Science) *vide* notification dated 30th April, 2008. The qualifying criteria in the said advertisement was as below:-

“A degree in the concerned subject and B.Ed./BT conferred or recognized by the Universities in Kerala. (Concerned subjects are specified in Note 3 below)

(1)

(2)

(3) Applicant should have taken Physics/Chemistry/Home Science as main Subject for graduation. Degree in Geology (Main) with Physics and Chemistry as subsidiary subjects and B.Ed Degree (Physical/Science) can also be considered as an alternative qualification for the post (GO(MS) No. 195/96/G.Edn. Dated 22.7.1996).”

5. The appellant, who holds a graduation degree in B.Sc(Polymer Chemistry) and a B.Ed(Physical Science), appeared in the written test on 10th October, 2009 and cleared the exam. The KPSC invited the appellant *vide* letter dated 03rd October, 2011 for the interview requiring her to produce the equivalency certificate evidencing that B.Sc(Polymer Chemistry) is equivalent to B.Sc(Chemistry).

6. The appellant claims that the University of Calicut had issued a certificate verifying that B.Sc(Polymer Chemistry) offered by the

said University is recognised as equivalent to its B.Sc(Chemistry) course for the purpose of employment and higher studies.

7. The KPSC released the final merit list. However, the appellant's name did not figure therein. The reasoning assigned for excluding the appellant's name was that the High Court of Kerala had held in the case of **A. Suma v. The Kerala Public Service Commission & Ors.**¹ that under the scheme of Kerala State & Subordinate Service Rules, 1958, the KPSC is incompetent to deal with the question of 'equivalence' of educational or other qualifications prescribed by the special rules, unless the special rules provide for the recognition of qualifications other than those prescribed.

8. Being aggrieved by her non-selection, the appellant preferred O.A. No. 370 of 2012 before the learned Tribunal seeking a direction that the respondents be commanded to include her name at the appropriate position in the final merit list according to the marks which she had obtained in the written test held by the KPSC. The original application preferred by the appellant came to be rejected by the Tribunal *vide* judgment dated 19th June, 2012, holding that the appellant failed to meet the qualifying criteria and

¹ 2010 SCC OnLine Ker 5028

thus she was ineligible for appointment to the post of High School Assistant(Physical Science).

9. The appellant assailed the order passed by the Tribunal by preferring OP(KAT) No. 3407 of 2012 in the High Court of Kerala. The learned Division Bench rejected the petition filed by the appellant *vide* judgment dated 16th October, 2012 which is subjected to challenge in this appeal by special leave.

Submissions on behalf of the appellant:-

10. Learned counsel representing the appellant vehemently and fervently contended that the Tribunal did not non-suit the appellant on the ground that the degree of B.Sc(Polymer Chemistry) was not equivalent to the degree in B.Sc(Chemistry) required under the notification. The reasoning assigned by the Tribunal in the order dated 19th June, 2012 was that the appellant had not studied physics as one of the subsidiary subjects. He urged that the said reasoning is without any basis whatsoever because the University of Calicut had verified that B.Sc(Polymer Chemistry) degree obtained by the appellant was equivalent to the degree of B.Sc(Chemistry) required under the advertisement. *A fortiori*, the appellant became eligible to appear in the interview on her standing in the final merit list. He thus urged that the finding

recorded by the Tribunal and affirmed by the High Court in the impugned judgment holding that the appellant was not qualified for the post, is illegal and arbitrary and the appellant deserves the relief claimed for.

Submissions on behalf of respondent-KPSC: -

11. *Per contra*, learned counsel representing the respondent-KPSC drew the Court's attention to the qualifying criteria incorporated in the notification dated 03rd October, 2011(*supra*) and urged that the same indicates in unambiguous terms that the aspirant for the post must be holding a graduation degree in B.Sc(Chemistry). He contended that the issue of equivalence cannot be gone into either by the Commission or the Court while exercising the power of judicial review. The said domain is exclusive to the experts/educational institutions authorised in this regard. He submitted that the Division Bench of High Court has assigned unassailable reasoning for denying relief to the appellant and thus, the present appeal merits dismissal.

Discussion and Conclusion: -

12. We have given thoughtful consideration to the submissions advanced at bar and have gone through the impugned judgment and the material placed on record.

13. Indisputably, the qualifying criteria prescribed for the post advertised *vide* notification dated 30th April, 2008 was a degree in B.Sc(Chemistry). Admittedly, the appellant does not hold such a degree. It is the case of the appellant that B.Sc(Polymer Chemistry) degree acquired by her is required to be treated as equivalent to a degree in B.Sc(Chemistry). However, the said argument does not hold water and is misconceived.

14. This Court in the case of **Zahoor Ahmad Rather and Others v. Sheikh Imtiyaz Ahmad and Others**² held that judicial review can neither expand the ambit of the prescribed qualifications nor decide the equivalence of the prescribed qualifications with any other given qualification. Therefore, the equivalence of a qualification is not a matter that can be determined in the 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.

(emphasis supplied)

15. In **Unnikrishnan CV and Others v. Union of India and Others**³, a three Judge Bench of this Court, while relying upon the earlier judgment in the case of **Guru Nanak Dev University v.**

² (2019) 2 SCC 404

³ 2023 SCC OnLine SC 343

Sanjay Kumar Katwal and Another⁴ held that equivalence is a technical academic matter, it cannot be implied or assumed. Any decision of the academic body of the University relating to equivalence should be by specific order or resolution, duly published.

16. The fervent plea advanced on behalf of the appellant that the University of Calicut had issued a certificate dated 10th October, 2011 verifying that B.Sc(Polymer Chemistry) course of the said University is recognised as equivalent to its B.Sc(Chemistry) course is also not tenable in light of the observations made by this Court in the case of **Unnikrishnan CV(supra)**. In view of the settled principles of law flowing from the above precedents, we are of the firm view that the appellant herein was not qualified for the post advertised *vide* notification dated 30th April, 2008.

17. As a result, we find no justifiable reason so as to interfere with the judgment dated 16th October, 2012 rendered by the High Court.

18. The appeal lacks merit and is dismissed as such. No order as to costs.

⁴ (2009) 1 SCC 610

19. Pending application(s), if any, shall stand disposed of.

.....J.
(HIMA KOHLI)

.....J.
(SANDEEP MEHTA)

New Delhi;
AUGUST 06, 2024