

INDRESH KUMAR MISHRA AND ORS.

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v.

THE STATE OF JHARKHAND & ORS.

(Civil Appeal Nos. 2217-2218 of 2022)

APRIL 13, 2022

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[M. R. SHAH AND B. V. NAGARATHNA, JJ.]

*Service law: Appointment to the Post of Postgraduate trained Teachers – Eligibility Criteria – Jharkhand Selection Service Selection issued an advertisement by which application were invited from the eligible candidate for the appointment to the Post of Postgraduate trained Teachers – Eligibility Criteria for the appointment in History was Postgraduate degree in History with 50% marks – At the time of verification of testimonials of the selected candidates, it was found that they had a Postgraduate degree in one of the branches of History in place of History as a whole – Their candidatures were cancelled – High Court dismissed their writ petition – On appeal, held: Obtaining degree in one of the branches of History cannot be said to be having a degree in History as a whole – History teacher has to teach in all branches of History, namely, Ancient History, Medieval/Modern History, etc – Expert Committee opined that the degrees obtained by the respective candidates/petitioners in one branch of History cannot be said to be obtaining the degree in History as a whole and therefore they cannot be said to be having the requisite qualification as per the advertisement – In the field of education, the Court of Law cannot act as an expert normally, therefore, whether or not a student/candidate is possessing the requisite qualification should better be left to the educational institutions, more particularly, when the Expert Committee considers the matter – Candidature of appellants rightly cancelled on the ground that they did not have the requisite qualification for the post – Education/Educational Institutions.*

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**Dismissing the appeals, the Court**

**HELD: 1. The respective writ petitioners have obtained the Postgraduate degrees/ Bachelor degrees, as the case may be, in one of the branches of History, namely, Indian Ancient History, Indian Ancient History and Culture, Medieval / Modern**

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- A **History, Indian Ancient History, Culture and Archaeology.** Obtaining the degree in one of the branches of History cannot be said to be obtaining the degree in History as a whole. As a History teacher, he/she has to teach in all the subjects of History, namely, Ancient History, Indian Ancient History and Culture, Medieval / Modern History, Indian Ancient History, Culture and Archaeology etc. Therefore, having studied and obtaining the degree in only one branch of History cannot be said to be having a degree in History subject as a whole, which was the requirement. All the relevant aspects have been considered and gone into in detail by the Single Judge meticulously. [Paras 6, 6.1][333-D-G]
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- C **2. Even at the request of J.S.S.C. the question, whether, the degrees obtained by the respective petitioners in one branch of History can be said to be sufficient compliance as per the advertisement and can be said to be obtaining a degree in History came to be considered by the Expert Committee and the Expert**
- D **Committee has opined that the degrees obtained by the respective candidates/petitioners in one branch of History cannot be said to be obtaining the degree in History as a whole and therefore they cannot be said to be having the requisite qualification as per the advertisement. As per the settled proposition of law, in the field of education, the Court of Law cannot act as an expert normally, therefore, whether or not a student/candidate is possessing the requisite qualification should better be left to the educational institutions, more particularly, when the Expert Committee considers the matter. [Paras 6.4, 6.5][334-B-D]**
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- F **3. In the present case, the educational qualifications required has been specifically mentioned in the advertisement. There is no ambiguity and/or confusion in the advertisement providing educational qualification and the post for which the applications were invited (History/Civics). There cannot be any deviation from the educational qualifications mentioned in the advertisement. Once having found that the respective writ petitioners-appellants were not having the requisite qualification as per the advertisement, namely, the Postgraduate/Bachelor degree in History, which was the requirement as per the advertisement and thereafter their candidature was canceled, both**
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**the Single Judge as well as the Division Bench of the High Court have rightly refused to interfere with the same. [Para 6.6] [334-E-G]** A

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2217-2218 of 2022.

From the Judgment and Order dated 02.06.2020 of the High Court of Jharkhand at Ranchi in L.P.A. No.796 of 2019 and Order dated 15.06.2020 in L.P.A. No.826 of 2019. B

With

Civil Appeal Nos. 2220, 2219 And 2221 of 2022 C

Mrs. V. Mohana, Sr. Adv., Abhishek Kaushik, Chetan Joshi, Ms. Swati P. Roy, Raja Rajeshwaran S., M. Yogesh Kanna, Narender Kumar Verma, Vikas Tripathi, Ms. Mandavi Pandey, Pulkit Srivastava, Advs. for the Appellants.

Sunil Kumar, Ajit Kumar Sinha, Sr. Advs., Vishnu Sharma, Abhishek, Mrs. Anupama Sharma, Ms. Shreya Singh, Kabir Dixit, Ms. Rohini Prasad, Prashant Bhushan, Anilendra Pandey, Ms. Alice Raj, Brajesh Pandey, Mukesh Tiwari, Shilender Chaudhry, Hitesh Kumar Sharma, S. K. Rajora, Akhileshwar Jha, E. Vinay Kumar, Naresh Kumar, Advs. for the Respondents. D

The Judgment of the Court was delivered by E

**M. R. SHAH, J.**

1. Feeling aggrieved and dissatisfied with the impugned judgments and orders passed by the Division Bench of the High Court in Letters Patent Appeal Nos. 796 of 2019 and 826 of 2019 by which the Division Bench of the High Court has confirmed the respective judgments and orders passed by the learned Single Judge of the High Court dismissing the writ petitions, the original writ petitioners have preferred the present appeals. F

1.1 The present appeals are of two categories. Civil Appeal Nos. 2217-2218 of 2022, Civil Appeal No. 2219 of 2022 and Civil Appeal No. 2221 of 2022 are with respect to the writ petitioners, who applied for the post of Postgraduate Trained Teacher in the subject History and Civil Appeal No. 2220 of 2022 is with respect to the original writ petitioners, who applied for the post of Graduate Trained Teacher in the subject of History/Civics. G

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- A        2. The facts leading to the present appeals in a nutshell are as under:-

**Facts in respect of Postgraduate Trained Teachers**

- B        2.1 That the Department of Personnel, Administrative Reforms and Rajbhasha, Government of Jharkhand vide its letter dated 24.07.2017 forwarded requisition of the Department of School Education and Literacy (Secondary Education Directorate) Government of Jharkhand to the Jharkhand Staff Selection Commission (hereinafter referred to as "J.S.S.C.") in terms of the Appointment Rules, 2012 for starting the selection process for appointment to the post of Postgraduate Trained Teachers in the High School of the State of Jharkhand for different subjects under different categories.
- C        2.2 That the J.S.S.C. after receiving the request, started the selection process for appointment to the post of Postgraduate Trained Teachers (P.G.T.T.) in the State of Jharkhand in different subjects, i.e., Chemistry, Physics, History etc. Accordingly, advertisement No.10/2017 was issued by which applications were invited from the eligible candidates for considering their candidature for appointment to the post of Postgraduate Trained Teachers. It was a combined advertisement for the post of Postgraduate Trained Teachers for different subjects under different categories. The advertisement provided the pay-scale and minimum educational qualification for the posts. That as per the advertisement, the eligibility criteria for the post of Postgraduate Trained Teachers in the subject History was that a candidate must have obtained a Postgraduate degree with 50% marks in the related subjects (in the subject of History).
- D        2.3 Pursuant to the advertisement, the respective original writ petitioners applied for the said posts and participated in the selection process. All of them submitted their application forms online and in their forms, they also mentioned their respective educational qualifications as Post graduates in Hindi. They were allowed to appear in the examination, who were also declared successful on the basis of their performance in the examination. After publication of the result, successful candidates were required to get verification of their testimonials. At the time of verification of the testimonials, the respective original writ petitioners submitted their Postgraduate degree certificates. It was found that the respective original writ petitioners were having a Postgraduate
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degree in Medieval History; Ancient History; Ancient History and Culture; Ancient History, Culture and Archaeology etc. respectively from different universities and as such they failed to submit the Postgraduate degree in History in terms of the advertisement. It was found that the respective petitioners had Postgraduate degrees in one of branches of History in place of History as a whole and, therefore, show-cause notices were issued to them by J.S.S.C. to show-cause why their candidatures may not be cancelled as they failed to submit the certificate of Master of Arts (Postgraduation) with the subject "History".

2.4 At that stage, some of the writ petitioners filed the writ petitions before the High Court and some filed writ petitions after their candidatures were cancelled. The learned Single Judge dismissed their respective writ petitions holding that the original writ petitioners were ineligible for the selection and appointment as Postgraduate Teacher in History subject. The learned Single Judge held that only those candidates, who have obtained degree exclusively in the subject "History" as per the advertisement are entitled for consideration for appointment to the said post.

2.5 Feeling aggrieved and dissatisfied with the judgments and orders passed by the learned Single Judge in dismissing the writ petitions, the original writ petitioners preferred letters patent appeals before the Division Bench of the High Court. By the impugned judgments and orders, the Division Bench of the High Court has dismissed the Letters Patent Appeals and has confirmed the judgments and orders passed by the learned Single Judge dismissing the writ petitions, which has given rise to the present Civil Appeal Nos. 2217-2218 of 2022, Civil Appeal No. 2219 of 2022 and Civil Appeal No. 2221 of 2022.

#### **Facts in respect of Graduate Trained Teachers**

2.1.1 That the Department of Personnel, Administrative Reforms and Rajbhasha, Government of Jharkhand by letters dated 23.09.2016, 04.11.2016 and 02.02.2017 sent the requisition to the J.S.S.C. for starting the selection process for appointment to the post of Graduate Trained Teachers in different subjects in different Districts of the State. That the J.S.S.C. after receiving the requisition, started selection process for appointment to the post of Graduate Trained Teachers and accordingly invited online applications for the Common Graduate Trained Teacher Competition Examination, 2016. The advertisement No.21/2016 was

- A published by which applications were invited from the eligible candidates for considering their candidatures for appointment against the advertised posts. As per the advertisement, for the post of History/Civics, the eligibility criteria was “Graduate with History and Political Science but out of two subjects, one subject must have 45 per cent marks and B.Ed. from institute recognized or B.Ed. from National Teachers Education Council and for SC/ST minimum 40 per cent”.

2.1.2 The respective writ petitioners submitted their application forms online for considering their candidatures for appointment to the post of Graduate Trained Teacher (G.T.T.) for subject ‘History and Civics’. They mentioned their educational qualification as Graduate in

- C History and Political Science in their online application forms.
- D 2.1.3 On the basis of the declaration made by them in the online application form, they were allowed to appear in the examination and they were also declared successful on the basis of their performance in the examination. After publication of the result, the successful candidates were called for verification of their testimonials.

On the date of the verification of the testimonials, the original writ petitioners submitted their certificates of Graduation degree. It was found that they were having the Graduate Degree in Ancient History; Ancient History, Culture and Archaeology and Medieval History etc. respectively

- E from different universities and they failed to submit their Graduation degree in ‘History’ in terms of the advertisement. Therefore, it was found that as the petitioners had Graduation degree in one of the branches of the subject History in place of ‘History’ as a whole and therefore, they were not eligible for the post of Graduate Trained Teachers in the
- F subjects of History and Civics as they cannot be said to be having the requisite qualification in terms of the advertisement.

2.1.4 The show cause notices were issued to them to show cause why their candidatures may not be cancelled on the ground that they are not having the requisite qualification in terms of the advertisement and

- G therefore ineligible for the post of Graduate Trained Teacher in the subject of History and Civics.

2.1.5 At that stage and after their candidatures were cancelled, the respective petitioners filed the writ petitions before the High Court. The learned Single Judge of the High Court dismissed the writ petitions

- H by observing and holding that obtaining the Bachelor degree in one of

the branches of the subject, namely, History cannot be said to be obtaining A  
the Graduation degree in the subject of 'History' as a whole and therefore,  
they are not eligible as they cannot be said to be having the requisite  
qualification in terms of the advertisement.

2.1.6 Feeling aggrieved and dissatisfied with the judgments and B  
orders passed by the learned Single Judge dismissing the writ petitions,  
the original writ petitioners preferred Letters Patent Appeals before the  
High Court. By the impugned judgments and orders, the High Court has  
dismissed the said Letters Patent Appeals. Hence the original writ  
petitioners have preferred the present Civil Appeal No. 2220 of 2022.

3. Mrs. V. Mohana, learned Senior Advocate and Ms. Mandavi C  
Pandey, learned counsel appearing on behalf of the respective appellants  
have vehemently submitted that the advertisements itself were confusing.  
It is submitted that in the advertisements, the word "History/Civics" has  
been mentioned, so far as Graduate Trained Teacher is concerned.

3.1 It is further submitted that as such the original writ petitioners D  
are having the prescribed requisite minimum educational qualifications  
as a Graduate in the related subject (the requisite qualification in History  
and Political Science). It is submitted that on a conjoint reading of the  
post which had to be filled and the minimum educational qualifications  
prescribed, it is clear that Graduation in related subject with minimum 45 E  
per cent marks was the requisite qualification. That all the petitioners  
have obtained the Graduation/Postgraduation degree in Indian Ancient  
History, Indian Ancient History and Culture, Medieval / Modern History,  
Indian Ancient History, Culture and Archaeology indicating specialization  
in the History subject. It is submitted that the papers pursued by the  
petitioners are in "History". It is submitted that admittedly, the petitioners F  
also studied Political Science in their Graduation. Therefore, the  
respondents ought not to have rejected the candidature of the petitioners  
on the ground that they did not have the requisite qualifications as per  
the advertisement.

3.2 It is further submitted that the High Court has not properly G  
appreciated the fact that so far as G.T.T. candidates are concerned, no  
Expert Committee was constituted to consider the educational  
qualifications obtained by them. It is submitted that as such the Expert  
Committee considered the Postgraduate degrees obtained by the  
respective candidates, who applied for the post of P.G.T.T. (History).

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- A        3.3 It is further submitted that even the so-called Committee comprised only of the local Institutions and persons from the State of Jharkhand alone. That the so-called Expert Committee was never constituted in the case of G.T.T. candidates and it was restricted to considering the cases of P.G.T.T. candidates.
- B        3.4 Mrs. Mohana, learned Senior Advocate appearing on behalf of the petitioners - G.T.T. candidates has further submitted that even the case of G.T.T. cannot be compared with that of P.G.T.T. candidates. It is submitted that the minimum eligibility requirement in both were completely different. Applications for P.G.T.T. candidates were invited only to teach "History" and the requirement was degree in the related subject. On the other hand, G.T.T. candidates were required for teaching "History/Civics" and the minimum eligibility is also different.
- C        3.5 It is further submitted that in the present case, the principle of legitimate expectation ought to be invoked in view of the fact that in the identically worded previous advertisements, the candidates having similar / identical qualifications as that of the petitioners were selected and are working.
- D        3.6 It is further submitted that the Hon'ble High Court ought to have appreciated that the other States and the instrumentalities of those States recognize the degrees which the petitioners are having, for the concerned post/subject. It is submitted that even Kendriya Vidyalaya, which is controlled by the Central Government appoints candidates possessing Graduation degree in Ancient Indian History / Ancient Indian History and Archaeology / Medieval and Modern History for the post of G.T.T. (History) and does not make an objection upon such degrees of those candidates. It is submitted that as such at the Secondary level, there is no composite subject like Social Studies. It is submitted that Secondary level is upto Class X only which has subject Social Studies.
- E        3.7 It is further submitted that as such it is clarified in the respective certificates issued by the respective universities that the Ancient Indian History / Ancient Indian History and Archaeology / Medieval and Modern History is an integral part of the History and is equivalent to History as a subject. It is submitted that the said subjects come under the subject "History". It is urged that therefore the respective candidates are eligible for teaching the History/Civics.
- F        3.8 It is further submitted that the High Court has not properly appreciated the fact that in the various Universities there is heterogeneity

at the Graduation level while conferring degrees in various subjects. A

Some Universities confer Bachelor of Arts in the subject itself like B.A. in History and some Universities confer B.A. in related branch of History indicating specialization like B.A. in Medieval History and B.A. in Ancient History etc. It is submitted that all these degrees indicating various specializations in various related branches of History cannot be construed as divorced from subject "History". B

3.9 Mrs. Mohana, learned Senior Advocate has heavily relied upon the decision of the learned Single Judge of the Jharkhand High Court in **Writ Petition No.1130 of 2017 – Hari Sharma and Ors. Vs. State of Jharkhand** by which with respect to the very advertisement and very post in the subject, "History/Civics", it is observed and held that the qualification for appointment on the post of G.T.T. for "History/Civics" in Advertisement No. 21 of 2016 is arbitrary, discriminatory and illegal and it is contrary to Jharkhand Appointment Rules. It is submitted that in the aforesaid decision, the learned Single Judge also quashed the entire advertisement No.21 of 2016, more particularly, the posts in the subject of "History/Civics" on account of serious inconsistencies, mistakes and drafting errors. However, Mrs. Mohana, learned Senior Advocate has fairly conceded that against the decision of the learned Single Judge, an appeal is preferred and pending and the judgment and order passed by the learned Single Judge has been stayed. C

3.10 In addition to what has been submitted by Mrs. Mohana, learned Senior Advocate appearing on behalf of the G.T.T., Ms. Mandavi Pandey, learned counsel appearing on behalf of the P.G.T.T. has vehemently submitted that the Universities from where they have studied and obtained the Postgraduation degrees in History/Postgraduate degree certificates in History are not given and the degree certificates are given only in the particular specialized branch of History. It is submitted that therefore the Postgraduation degree in History and Bachelor of Arts degree in History, both are different and cannot be equated and/or compared. D

4. All these appeals are opposed by Shri Sunil Kumar, learned Senior Advocate appearing on behalf of the J.S.S.C. and Shri Vishnu Sharma, learned counsel appearing on behalf of the State of Jharkhand. The present appeals are also opposed by Shri Ajit Kumar Sinha, learned Senior Advocate appearing on behalf of the impleaders, who are already appointed and posted. G

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- A        4.1 It is vehemently submitted on behalf of the respective respondents that the applications were invited by giving advertisements as per **Rule 50 of the Rules and especially considering Rule 9**. That as per the advertisement, the requirement was specific, namely combination of "History/Civics" (post of G.T.T.).
- B        4.2 That according to the State, for History and Civics, only one teacher is required. Therefore, the requirement was specific – "History/ Civics". That in the advertisement both for the posts of P.G.T.T. as well as G.T.T., the candidate must have obtained Masters/Bachelor degree in 'History' and in case of G.T.T. with Political Science with 45 per cent marks in any one of the subjects. It is submitted that therefore obtaining the Postgraduate degree/Bachelor degree in History as a whole is a must. That the candidates should have a degree in Political Science also so far as post of G.T.T. In the present case, admittedly, none of the candidates/writ petitioners are having Postgraduate/Bachelor degree in History as a whole. It is contended that they have studied and obtained the Postgraduate/Bachelor degrees in only one of the branches of History namely Indian Ancient History, Indian Ancient History and Culture, Medieval / Modern History, Indian Ancient History, Culture and Archaeology, which cannot be said to be obtaining the Postgraduate/ Bachelor degree in History, which was the requirement. It is urged that even an Expert Committee was constituted by the State Government on the request made by the J.S.S.C. and it opined that the degrees obtained by the respective writ petitioners cannot be said to be obtaining / having a Postgraduate degree in the subject "History". It is submitted that the same view is applicable with respect to the Bachelor degree in History. Therefore, the same analogy is applicable to both – Postgraduate degree in History and Bachelor degree in History.
- C        4.3 It is further submitted by the learned counsel for the respective respondents including those, who have already been appointed that only those candidates, who were having the degrees in History have been selected and appointed. Shri Sinha, learned Senior Advocate appearing on behalf of the impleaders submitted that the already appointed candidates are only those, who were having the Bachelor / Postgraduate degree in History and not in a particular branch of History.
- D        4.4 Making the above submissions, it is contended that the learned Single Judge as well as the High Court have rightly refused to grant any relief in favour of the original writ petitioners on the ground that they

cannot be said to be having the requisite qualifications as per the advertisement. A

5. We have heard the learned counsel appearing on behalf of the respective parties at length.

6. At the outset, it is required to be noted that in the present appeals, the dispute is with respect to the posts namely, Postgraduate Trained Teacher in History and Graduate Trained Teachers in History/Civics. As per the State, so far as the G.T.T. is concerned, the requirement was a combination of History/Civics. As per the advertisement, a candidate must have the Postgraduate/Bachelor degree in the subject History. So far as the G.T.T. is concerned, the educational qualifications required was Bachelor degree in 'History' as well as Political Science as the requirement was for History/Civics. Therefore, for both the posts namely the Postgraduate Trained Teachers (History) and Graduate Trained Teachers (History/Civics), a candidate must have the Postgraduate/Bachelor degree in 'History' as a whole. B C D

6.1 We have gone through the degrees/ certificates in the case of the respective writ petitioners. It appears that the respective writ petitioners have obtained the Postgraduate degrees/ Bachelor degrees, as the case may be, in one of the branches of History, namely, Indian Ancient History, Indian Ancient History and Culture, Medieval / Modern History, Indian Ancient History, Culture and Archaeology. In our view, obtaining the degree in one of the branches of History cannot be said to be obtaining the degree in History as a whole. As a History teacher, he/she has to teach in all the subjects of History, namely, Ancient History, Indian Ancient History and Culture, Medieval / Modern History, Indian Ancient History, Culture and Archaeology etc. Therefore, having studied and obtaining the degree in only one branch of History cannot be said to be having a degree in History subject as a whole, which was the requirement. All the relevant aspects have been considered and gone into in detail by the learned Single Judge meticulously. E F

6.2 Now, so far as the reliance placed upon the decision of the learned Single Judge of the Jharkhand High Court in Writ Petition No. 1130 of 2017 – Hari Sharma and Ors. Vs. State of Jharkhand is concerned, it is to be noted that the said decision of the learned Single Judge has been stayed by the Division Bench in appeal and the decision is pending. Even the controversy in the said writ petition before the learned Single G H

- A Judge was with respect to combination post namely, "History/Civics" and there was no specific controversy like in the present case.

6.3 It is also required to be noted that all the posts advertised have been filled in and the respective teachers are working.

- B 6.4 At this stage, it is required to be noted that even at the request of J.S.S.C. the question, whether, the degrees obtained by the respective petitioners in one branch of History can be said to be sufficient compliance as per the advertisement and can be said to be obtaining a degree in History came to be considered by the Expert Committee and the Expert Committee has opined that the degrees obtained by the respective candidates/petitioners in one branch of History cannot be said to be obtaining the degree in History as a whole and therefore they cannot be said to be having the requisite qualification as per the advertisement.

- D 6.5 As per the settled proposition of law, in the field of education, the Court of Law cannot act as an expert normally, therefore, whether or not a student/candidate is possessing the requisite qualification should better be left to the educational institutions, more particularly, when the Expert Committee considers the matter.

- E 6.6 In the present case, the educational qualifications required has been specifically mentioned in the advertisement. There is no ambiguity and/or confusion in the advertisement providing educational qualification and the post for which the applications were invited (History/Civics). There cannot be any deviation from the educational qualifications mentioned in the advertisement. Once having found that the respective writ petitioners – appellants herein were not having the requisite qualification as per the advertisement, namely, the Postgraduate/Bachelor F degree in History, which was the requirement as per the advertisement and thereafter their candidature was canceled, both the learned Single Judge as well as the Division Bench of the High Court have rightly refused to interfere with the same. We are in complete agreement with the view taken by the learned Single Judge and the Division Bench of G the High Court.

- H 6.7 As observed hereinabove in the online applications, it was stated by the respective petitioners that they are having the Postgraduate/Bachelor degree in History and only at the time of verification of the documents, when the respective certificates were produced, at that time only, the authorities came to know that the respective writ petitioners

have the degrees in one branch of History and not in History as a whole and therefore the show-cause notices were issued so that the respective petitioners can clarify and satisfy that they are having the requisite qualification of Postgraduate/Bachelor degree in History and after giving them the opportunity, the decision has been taken and that too after obtaining the Expert Committee's opinion.

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7. In view of the above and for the reasons stated above, we see no reason to interfere with the common judgments and order passed by the learned Single Judge, which has been confirmed by the Division Bench of the High Court. The candidature/selection of the respective petitioners are rightly cancelled on the ground that they were not having the requisite qualification for the post – Postgraduate/Bachelor degree in History as per the advertisement No.21 of 2016 and 10 of 2017.

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In view of the above and for the reasons stated above, all the appeals fail and the same deserve to be dismissed and are accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.

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Devika Gujral

Appeals dismissed.