

Shri Kamal Kumar Bhardwaj vs Sandeep Shriram Warade And on 23 September, 2022

Bench: Sabina, Sushil Kukreja

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IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

ON THE 23rd DAY OF SEPTEMBER, 2022
BEFORE

HON'BLE MS. JUSTICE SABINA

&

HON'BLE MR. JUSTICE SUSHIL KUKREJA

LETTERS PATENT APPEAL No.65 of 2020
LETTERS PATENT APPEAL No.64 of 2020
CIVIL WRIT PETITION (ORIGINAL APPLICATION) No.1872 of 2020

LETTERS PATENT APPEAL No.65 of 2020

Between:-

1. SHRI KAMAL KUMAR BHARDWAJ,

S/O SHRI DESH RAJ, R/O VILLAGE

DHAMROLA, POST OFFICE, JAKHYOL,
TEHSIL BHORANJ, DISTRICT HAMIRPUR,
HIMACHAL PRADESH.

2. ARUNA KUMARI, W/O SHRI PARVEEN
KUMAR, R/O VILLAGE BHERI, POST OFFICE,

BHAROLI KALAN, TEHSIL JHANDUTTA,
DISTRICT BILASPUR, HIMACHAL
PRADESH.

.....APPELLANTS

(BY MR. RAJIV RAI, ADVOCATE)

AND

1. HIMACHAL PRADESH STAFF SELECTION
COMMISSION, HAMIRPUR, HIMACHAL

PRADESH THROUGH IT'S SECRETARY.

2. SECRETARY, DEPARTMENT OF HEALTH,
HIMACHAL PRADESH, SHIMLA-2,
HIMACHAL PRADESH.
3. DIRECTOR, DEPARTMENT OF HEALTH
SAFETY & REGULATION, SHIMLA-2,
HIMACHAL PRADESH.
4. FOOD SAFETY AND STANDARDS AUTHORITY
OF INDIA, FDA BHAWAN, KOTLA ROAD,
NEW DELHI THROUGH IT'S CHIEF EXECUTIVE
OFFICER.

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5. DIRECTOR, FOOD SAFETY AND STANDARDS
AUTHORITY OF INDIA, FDA BHAWAN,
KOTLA ROAD, NEW DELHI THROUGH
IT'S CHAIRMAN CUM AGENCY EXECUTIVE.
6. DIKSHA KAPIL, D/O SHRI GOPAL KAPIL, R/O
VILLAGE THAPAR, POST OFFICE BALGHAR,

TEHSIL JHANDUTTA, DISTRICT BILASPUR,

HIMACHAL PRADESH.

7. SUNIL SHARMA, S/O SHRI OM PARKASH
SHARMA, R/O NOT KNOWN TO THE

APPLICANT. THROUGH SECRETARY,
HIMACHAL PRADESH STAFF SELECTION
COMMISSION, HAMIRPUR.

8. PANKAJ KUMAR, S/O SHRI SUSHIL KUMAR,
R/O NOT KNOWN TO THE APPLICANT,

THROUGH SECRETARY, HIMACHAL
PRADESH STAFF SELECTION COMMISSION,
HAMIRPUR.RESPONDENTS

9. SHRI SANJEEV KUMAR, S/O SHRI SATISH

KUMAR, R/O VILLAGE LAMBA GAONH,

POST OFFICE, LOWER LAMBA GAON,
TEHSIL JAISINGHPUR, DISTRICT KANGRA,
HIMACHAL PRADESH.PERFORMA RESPONDENTS

(MR. SANJEEV KUMAR MOTTA, ADVOCATE

FOR RESPONDENT NO.1,
MR. AJAY VAIDYA, SENIOR ADDITIONAL ADVOCATE
GENERAL, FOR RESPONDENTS NO.2 & 3,

MR. ATUL G. SOOD, ADVOCATE, FOR
RESPONDENTS NO.4 & 5,
MR. DILIP SHARMA, SENIOR ADVOCATE WITH

MR. MANISH SHARMA, ADVOCATE, FOR
RESPONDENTS NO.6 & 7.)

LETTERS PATENT APPEAL No.64 of 2020

Between:-

SMT. SUDHA BATT, D/O SHRI RAVINDER
BATT, R/O MOHALLA HARDASPURA,
DISTRICT CHAMBA, H.P. APPELLANT
(BY MR. LALIT KUMAR SEHGAL, ADVOCATE)

AND

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1. HIMACHAL PRADESH STAFF SELECTION
COMMISSION, HAMIRPUR, DISTRICT
HAMIRPUR, HP THROUGH ITS SECRETARY.
2. SECRETARY, DEPARTMENT OF HEALTH
TO THE GOVERNMENT OF HP, SHIMLA-2.
3. DIRECTOR, DEPARTMENT OF HEALTH

SAFETY & REGULATION, SHIMLA-2.

4. FOOD SAFETY AND STANDARD AUTHORITY
OF INDIA, FDA BHAWAN, KOTLA ROAD,
NEW DELHI THROUGH ITS CHIEF EXECUTIVE

OFFICER.

5. SUNIL SHARMA, S/O NOT KNOWN TO THE APPELLANT, ROLL NO.657000073, R/O NOT KNOWN TO THE APPELLANT, THROUGH SECRETARY HIMACHAL PRADESH

STAFF SELECTION COMMISSION, DISTRICT HAMIRPUR.

6. ABHISHEK THAKUR, S/O NOT KNOWN TO THE APPELLANT, ROLL NO.657000141, R/O NOT KNOWN TO THE APPELLANT, THROUGH

SECRETARY, HIMACHAL PRADESH STAFF

SELECTION COMMISSION, DISTRICT HAMIRPUR.

7. SAKSHI SHARMA, D/O NOT KNOWN TO THE APPELLANT, ROLL NO.657000459, R/O NOT KNOWN TO THE APPELLANT, THROUGH SECRETARY HIMACHAL PRADESH STAFF

SELECTION COMMISSION, DISTRICT HAMIRPUR.

.....RESPONDENTS

(MR. SANJEEV KUMAR MOTTA, ADVOCATE

FOR RESPONDENT NO.1,
MR. AJAY VAIDYA, SENIOR ADDITIONAL

ADVOCATE GENERAL, FOR RESPONDENTS
NO.2 & 3,
MR. ATUL G. SOOD, ADVOCATE, FOR

RESPONDENT NO.4,
MR. DILIP SHARMA, SENIOR ADVOCATE WITH
MR. MANISH SHARMA, ADVOCATE, FOR
RESPONDENTS NO.5 & 7,
NONE FOR RESPONDENT NO.6.)

CIVIL WRIT PETITION (ORIGINAL APPLICATION) No.1872 of 2020

Between:-

KUMARI ALKA, D/O SH. SHANTI KUMAR,
R/O VILLAGE NARAIL, POST OFFICE,

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LAPHU, TEHSIL THEOG, DISTRICT
SHIMLA, H.P.
(BY MR. ANIL BANSAL, ADVOCATE)
AND

.....PETITIONER

1. STATE OF HIMACHAL PRADESH SECRETARY

(HEALTH) TO THE GOVERNMENT OF
HIMACHAL PRADESH.
2. HIMACHAL PRADESH STAFF SELECTION

COMMISSION, HAMIRPUR, HIMACHAL
PRADESH THROUGH ITS SECRETARY.
3. DIRECTOR, DEPARTMENT OF HEALTH SAFETY
& REGULATION, SHIMLA-2, HIMACHAL
PRADESH.RESPONDENTS

(MR. AJAY VAIDYA, SENIOR ADDITIONAL
ADVOCATE GENERAL, FOR RESPONDENTS
NO.1 & 3,
MR. ANGREZ KAPOOR, ADVOCATE FOR

RESPONDENT NO.2.)

RESERVED ON : 19.09.2022
PRONOUNCED ON : 23.09.2022

Theses Letters Patent Appeals and Civil Writ Petition (Original Application), coming on for hearing this day, Hon'ble Ms. Justice

Sabina, delivered the following:

JUDGMENT

Vide this judgment, above mentioned two Letters Patent Appeals and writ petition, shall be disposed of, as common issue is raised in them.

2. The question involved in the present cases is, as to whether the term, "Degree" mentioned in the advertisement/rules, means "Bachelor's Degree" only or would it include "Master's Degree" also vis-à-vis qualification for the post of Food Safety Officer.

3. Facts in the present cases are not in dispute. An advertisement .

No.34-1/2018 was issued by the Himachal Pradesh Staff Selection Commission, Hamirpur for filling up various posts, including Food Safety Officers. The post code for Food Safety Officers was '657'. As per the advertisement, 19 posts of Food Safety Officers were advertised. The appellants/petitioner also filled in their forms seeking their appointment as Food Safety Officers. As per the advertisement, the minimum qualification prescribed for the posts of Food Safety Officers was as under:-

657 i) A Degree in Food Technology or Dairy Food Safety Officer Technology or Biotechnology or Oil Technology or Agricultural Science or Veterinary Sciences or Bio-

Chemistry or Microbiology or Master's Degrees in Chemistry or Degree in Medicine from recognized University; or

ii) Any other equivalent/recognized qualification notified by the Central Government; and

iii) Has successfully completed training as specified by the Food Authority in a recognized institute or institution approved for the purpose.

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be appointed to be a Food Safety Officer under this rule.

4. So far as the appellants/petitioner are concerned, they had got "Master's Degree" in Biotechnology/Microbiology. The candidature of the appellants/petitioner was rejected on the ground that they did not have the "Bachelor's Degree" in Biotechnology/Microbiology, although, they had "Master's Degree" in Biotechnology/Microbiology.

5. Learned counsel for the appellants/petitioner have submitted that .

the learned Single Judge had erred in interpreting that the term "Degree" used in Column of minimum essential qualifications in Recruitment and Promotion Rules for the posts of Food Safety Officers means "Bachelor's Degree". In fact, it was not specifically mentioned in the rules or in the advertisement that the applicant was required to have "Bachelor's Degree" in Biotechnology/Microbiology. Rather, the term "Degree" had been used and the said term includes "Master's Degree".

6. Learned counsel for the appellants/petitioner have further submitted that a clarification was sought from the Food Safety and Standards Authority of India and vide letter dated 18.5.2019, placed on record as Annexure A-10 in CWPOA No.6 of 2019, it had been opined that the term "Degree" in Section 22(3) of the University Grants Commission Act, 1956, means "Bachelor's Degree", "Master's Degree"

and "Doctorate Degree". Learned counsel has further submitted that four posts of Food Safety Officers are lying vacant.

7. Learned counsel for appellant, Sudha Batta has further submitted the said appellant had Biotechnology as one of the subjects in her B.Sc. course and had also done "Master's Degree" in Biotechnology, therefore, the "Master's Degree" of the appellant, Sudha Batta in Biotechnology, was liable to be taken into account while considering the candidature of the said appellant as relevant minimum qualification.

8. In support of their arguments, learned counsel have placed .

reliance on the decision of the Hon'ble Apex Court in Maharashtra Public Service Commission vs. Sandeep Shriram Warade and others with connected matters, (2019) 6 SCC 362, wherein it has been held as under:-

"9. The essential qualifications for appointment to a post are for the employer to decide. The employer may prescribe additional or desirable qualifications, including any grant of preference. It is the employer who is best suited to decide the requirements a candidate must possess according to

the needs of the employer and the nature of work. The court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being on par with the essential eligibility by an interpretive re-writing of the advertisement. Questions of equivalence will also fall outside the domain of judicial review. If the language of the advertisement and the rules are clear, the Court cannot sit in judgment over the same. If there is an ambiguity in the advertisement or it is contrary to any rules or law the matter has to go back to the appointing authority after appropriate orders, to proceed in accordance with law. In no case can the Court, in the garb of judicial review, sit in the chair of the appointing authority to decide what is best for the employer and interpret the conditions of the advertisement contrary to the plain language of the same."

9. Learned counsel for the appellants/petitioner have also placed reliance upon the decision of the Hon'ble Apex Court in Prabhat .

Kumar Sharma vs. Union Public Service Commission and Others (2006) 10 SCC 587, wherein it has been held as under:-

"21. Learned Senior Counsel appearing for the appellant contends that after the coming into force of the Official Languages Act, 1963 the Hindi version was the authoritative text and in the case of ambiguity between Hindi and English versions, the Hindi version would prevail. Article 348 of the Constitution clearly provides English to be the authoritative text in respect of Acts of Parliament, amendments to Acts subject to any law made by Parliament. The Official Languages Act, 1963 vide Section 3 thereof provides for continuance of English language for official purposes of the Union and for use in Parliament. Section 5 provides for a Hindi translation of all Central Acts and Ordinances promulgated by the President or if any order or rule or regulation or bye-laws issued under the Constitution or under any Central Act. Section 6 deals with State Act with which we are not concerned in the instant case.

From the conjoint reading of Article 348 of the Constitution and Sections 3 and 5 of the Official Languages Act, 1963, English continues to remain the authoritative text in respect of the Acts of Parliament."

10. Learned counsel have also placed reliance upon the decision of the Hon'ble Apex Court in B. Premanand and Others vs. Mohan Koikal and Others, (2011) 4 SCC 266, wherein it has been held as under:-

"9. It may be mentioned in this connection that the .

first and foremost principle of interpretation of a statute in every system of interpretation is the literal rule of interpretation. The other rules of interpretation e.g. the mischief rule, purposive interpretation, etc. can only be resorted to when the plain words of a statute are ambiguous or lead to no intelligible results or if read literally would nullify the very object of the statute.

Where the words of a statute are absolutely clear and unambiguous, recourse cannot be had to the principles of interpretation other than the literal rule, vide *Swedish Match AB vs. Securities and Exchange Board, India*, AIR 2004 SC 4219."

11. Learned counsel for the appellants/petitioner have further placed reliance upon the decision of the Hon'ble Apex Court in *Parvaiz Ahmad Parry vs. State of Jammu and Kashmir and Others*, (2015) 17 SCC 709, wherein it has been held as under:-

"16. In our view, if a candidate has done BSc in Forestry as one of the major subjects and has also done Masters in Forestry i.e. M.Sc (Forestry) then in the absence of any clarification on such issue, the candidate possessing such higher qualification has to be held to possess the required qualification to apply for the post. In fact, acquiring higher qualification in the prescribed subject i.e. Forestry was sufficient to hold that the appellant had possessed the prescribed qualification. It was coupled with the fact that Forestry was one of the appellant's major subjects in graduation, due to which he was able to do his Masters in Forestry."

12. Mr. Dilip Sharma, learned Senior Advocate assisted by Mr. Manish Sharma, learned counsel for the private respondents has opposed the appeals and has submitted that the rules relating to prescription of minimum qualification for the post of Food Safety Officer was clear and did not require any interpretation. As per rules, the candidate was required to have "Bachelor's Degree" in the mentioned subjects. Learned counsel has also placed reliance on the publication issued in the official gazette with regard to prescription of minimum qualification for the post of Food Safety Officers in Hindi. As per learned counsel, the relevant rules published in Hindi in official gazette showed that the person was required to have "Bachelor's Degree" in the mentioned subjects. In support of his arguments, learned counsel has placed reliance on the decision of the Hon'ble Apex Court in *Zahoor Ahmad Rather and others vs. Sheikh Imtiyaz Ahmad and others with connected matter*, (2019) 2 SCC 404, wherein it has been held as under:-

"26. We are in respectful agreement with the interpretation which has been placed on the judgment in *Jyoti K.K. v. Kerala Public Service Commission*, (2010) 15 SCC 596 in the subsequent decision in *State of Punjab v. Anita*, (2015) 2 SCC 170. The decision in *Jyoti K.K.* 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.* turned on a specific statutory rule under which the holding of a higher qualification could pre suppose 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 of the High Court was justified in reversing the judgment 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 of the Division Bench.

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.* 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.* turned."

13. Learned counsel for the private respondents has also placed reliance upon the decision of the Hon'ble Apex Court in *Maharashtra Public Service Commission vs. Sandeep Shriram Warade and others with connected matters*, (2019) 6 SCC 362, wherein it has been held as under:-

"8. The advertisement for Drug Inspectors, reads as follows:

"Clause 4.5- Degree in Pharmacy or Pharmaceutical Chemistry or in medicine with specialization in clinical Pharmacology or Microbiology from a University established in India by law; and Clause 4.6 - Practical experience gained after acquiring qualification [above in clause (i) in the manufacture or testing of drugs or enforcement of the provisions of the Act for a period of not less than three years;

Clause 4.7 - Preference may be given to candidates having a post graduate degree in a subject mentioned in Clause 4.5 or research experience in the synthesis and testing of drugs."

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14. Learned counsel for the private respondents has further placed reliance upon the decision of the Hon'ble Apex Court in Zonal Manager, Bank of India, Zonal Office, Kochi and others vs. Aarya K. Babu and another, (2019) 8 SCC 587, wherein it has been held as under:-

"11. The learned counsel for the private respondents however contended that the High Court was justified in taking note that the course for Degree in B.Sc. (Agro -

Forestry) was not being imparted in the country and in such event the very Notification seeking for candidates possessing 4-year Degree in B.Sc. (Agro Forestry) was erroneous and as such the Degree in B.Sc. (Forestry) should be considered. The learned counsel seeks to rely upon the Bank of India (Officers) Service Regulations, 1979 to contend that in Clause 16.9 thereof a reference is made to "Special Officers" wherein it is indicated that one of the category therein being "Agriculture Officers", the qualification thereunder indicated is Degree in Agriculture and/or allied subjects and recruited/promoted/converted as such. In that view the learned counsel contends that as per the information furnished by ICAR dated 01.04.2015 the definition of "Agriculture" would include "Forestry" and in such event it will have to be construed that even though the Notification seeks for candidates possessing Degree in B.Sc. (Agro-Forestry) it would include B.Sc. (Forestry) which is an allied subject of Agriculture."

15. Learned counsel has also relied upon the decision of the Hon'ble .

Apex Court in Puneet Sharma and others vs. Himachal Pradesh State Electricity Board Ltd. and Another, 2021 SCC online SC 291, wherein it has been held as under:-

"2. Whether a degree in Electrical Engineering/ Electrical and Electronics Engineering is technically a higher qualification than a diploma in that discipline and, whether degree holders are eligible for appointment to the post of Junior Engineer (Electrical) under the relevant recruitment rules, is the issue that falls for decision in these appeals arising out of a common judgment of the Himachal Pradesh High Court. As is evident, this issue is not novel and has an almost endemic tendency requiring judicial attention, albeit in myriad and diverse contexts.

29. It would be also useful to notice a later judgment of this court, in Chief Manager, Punjab National Bank v Anit Kumar Das 2020 SCC OnLine SC 897 where the issue was, whether for the post of peon in the appellant Bank, a degree holder (graduate) could be appointed, given the conscious decision of the employer, that only those who held 10+2 pass qualifications would be considered and those with graduation qualification could not be considered. This court held that the appointment of the respondent, who was a graduate, after he suppressed the fact that he held a degree, and did not disclose it, was unsupportable. In this context, it was observed that as to what qualifications are applicable to what class of posts, is a matter of discretion to be exercised by the employer, which the courts would be slow to interdict. This decision

too supports the .

conclusions in the present case, since the employer, HPSEB asserts that it considers degree holders eligible for appointment to the post of JE."

16. Learned counsel has further relied upon the decision of the Division Bench of this Court in CWP No.161 of 2019, titled as Bhupender Sharma vs. State of HP and others, alongwith connected matter, dated 29.8.2019, wherein it has been held as under:-

"37. Though the aforesaid contention is very attractive, we do not think that the same is acceptable on a deeper scrutiny. The argument that the possession of a higher qualification would presuppose the possession of lower qualification, originally accepted by the Supreme Court in *Jyoti K.K. vs Kerala Public Service Commission* {(2010) 15 SCC 596}, had already been distinguished in *State of Punjab vs. Anita* {(2015) 2 SCC 170}. This distinction was quoted with approval in a subsequent decision in *Zahoor Ahmad Rather vs. Sheikh Imtiyaz Ahmad* {(2019) 2 SCC 404}. Therefore, the petitioner cannot advance his cause on the basis of a purported higher qualification. Insofar as the argument revolving around merit is concerned, it is to be pointed out that the assessment of merit should be confined only to those who satisfy the eligibility criteria prescribed by the Rules. Persons who fall outside the purview of the Rules cannot take advantage of the result of the written examination. Therefore, the third contention also deserves to be rejected.

49. The reliance placed by the learned Senior Counsel for the petitioner in *Parvaiz Ahmad Parry vs. .*

State of Jammu and Kashmir {(2015) 17 SCC 709}, is also misplaced. That was a case where the Rules stipulated the qualification of a BSc in Forestry or equivalent from any University recognized by the Indian Council of Agricultural Research. The appellant before the Supreme Court had acquired a degree in another subject with Forestry as one of the ancillaries and he had also acquired a MSc degree in Forestry. Therefore, the said decision turned on the special facts of the case.

Hence it is distinguishable.

50. Today the declaration of law that holds the field is the one in *Zahoor Ahmad Rather*. It was made clear in the said case that it is not the role of the Courts to find out the equivalence. In fact the Court implored in *Zahoor Ahmad Rather* that the State, as the employer, may legitimately bear in mind several factors including the nature of the job, the aptitudes required for efficient discharge of duties, functionality of qualification and the content of the course of studies. The State as a public employer, it was pointed out in the said decision, may well take into account social perspectives that require creation of job opportunities across the societal structure."

17. Learned counsel has further relied upon the decision of the Division Bench of this Court in CWP No.3238 of 2019, titled as The State of HP and another vs. Gayatri Devi and others, alongwith connected matters, dated 13.8.2021, wherein it has been held as under:-

"2. The Himachal Pradesh Staff Selection .

Commission (for short 'SSC') issued Advertisement No. 33-2/2017, (for short advertisement) dated 16.09.2017 inviting online applications from eligible candidates for the different category of posts including 205 posts of Female Health Worker (on contract basis) in the Department of Health and Family Welfare, Government of Himachal Pradesh against Post Code 651.

25. We deem it necessary to observe that the proposition "higher qualification will include lower qualification" cannot be applied universally as an indefeasible rule, it will always depend upon the facts and circumstances of each individual case."

18. Mr. Ajay Vaidya, learned Senior Additional Advocate General and Mr. Atul G. Sood, learned counsel for the Food Safety and Standards Authority of India, have opposed the appeals and have submitted that the learned Single Judge, had rightly dismissed the writ petitions filed by the appellants/petitioner.

19. Rule 2.1.3 of the Food Safety and Standards Act, 2011, reads as under:-

"1. Qualification.-Food Safety Officer shall be a whole-time officer and shall, on the date on which he is so appointed, possess the following:-

(i) a degree in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agricultural Science or Veterinary Sciences or Bio-Chemistry or Microbiology or Masters Degree in Chemistry or degree in medicine from a recognized University, or

(ii) any other equivalent/recognized qualification .

notified by the Central Government, and

(iii) has successfully completed training as specified by the Food Authority in a recognized institute or Institution approved for the purpose:

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be appointed to be a Food Safety Officer under this rule."

20. As per the gazette notification with regard to Recruitment and Promotion Rules for the post of Food Safety Officers in English is concerned, the same prescribes the minimum educational

qualification as under:-

"7. Minimum Educational and Other qualifications required for direct recruit(s)- (a) ESSENTIAL QUALIFICATIONS:- (i) A degree in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agricultural Science or Veterinary Sciences or Bio-

Chemistry or Microbiology or Masters Degree in Chemistry or Degree in Medicine from recognized University, or

(ii) Any other equivalent/recognized qualification notified by the Central Government;

and

(iii) Has successfully completed training as specified by the Food Authority in a recognized institute or institution approved for the purpose;

.

Provided that no person who has any financial interest in the manufacture, import or sales of any article of food shall be appointed to be a Food Safety Officer under this rule."

21. However, the Hindi version of the Rules published in the official gazette shows that a candidate is required to have "Bachelor's Degree"

in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agricultural Science or Veterinary Sciences or Bio-

Chemistry or Microbiology. The said fact is, however, not reflected in the official gazette published in English or in the Recruitment and Promotion Rules. It appears that there has been some clerical error in the Hindi version of the relevant rules. A reading of the Recruitment and Promotion Rules and publication of the rules in the official gazette in English, as well as the minimum qualification for the post of Food Safety Officer reflected in the advertisement show that all the three reflect the same minimum educational qualification for the post in question. Hence, we are of the opinion that the minimum educational qualification for the post of Food Safety Officer was correctly reflected in the advertisement.

22. The next question which arises for consideration is, as to whether the term "Degree" used in the advertisement vis-à-vis minimum educational qualification for the post of Food Safety Officer, would mean "Bachelor's Degree" as held by the learned Single Judge or would also include "Master's Degree". As per the relevant rule, a .

candidate was required to have degree in Biotechnology/Microbiology etc. or "Master's Degree" in Chemistry; or Degree in Medicine from a recognized University. Merely because a candidate was required to have "Master's Degree" in Chemistry, would not lead to an inference that so far as the other fields are concerned, the term "Degree" would mean only the "Bachelor's Degree". Rather, we are of the opinion that so far as the Chemistry subject is concerned, a person was required to have "Master's Degree", whereas, so far as the other subjects are concerned, including Biotechnology/Microbiology, a person was merely required to have a "Degree" and the said "Degree" could be "Bachelor's Degree" or a "Master's Degree" or a "Doctorate Degree". The term "Degree" as notified by the University Grants Commission, had been classified into three types, i.e., "Bachelors' Degree", "Master's Degree"

and "Doctorate Degree" until the type of degree was specified in the recruitment Regulations. In case, the term "Degree" is not specified in the recruitment Regulations, then, it may refer to any type of the "Degree", i.e., "Bachelor's Degree", "Master's Degree" and "Doctorate Degree".

23. In the present cases, the term "Degree" for Biotechnology/Microbiology subject has not been specified in the recruitment rules or in the advertisement, then, it is obvious that it refers to any Degree obtained by the candidate, i.e., "Bachelor's Degree", "Master's Degree" or "Doctorate Degree".

24. Learned Single Judge fell in error by holding that the term .

"Degree" used in the advertisement vis-à-vis minimum educational qualification for the post of Food Safety Officer, so far as the Biotechnology/Microbiology is concerned, refers to "Bachelor's Degree". The said interpretation of the learned Single Judge cannot be accepted. In case, it was the intention of the concerned Department that a candidate was required to have "Bachelor's Degree" in Biotechnology/Microbiology, it would have been specified in the rules as well as in the advertisement. Rather, in the rules as well as advertisement, a person was required to have "Degree" in Biotechnology/Microbiology and the same could be a "Bachelor's Degree" or a "Master's Degree" or a "Doctorate Degree". So far as the appellants/petitioner are concerned, admittedly, they are having "Master's Degree" in Biotechnology/Microbiology. The candidature of the appellants/petitioner was rejected on the ground that they did not have "Bachelor's Degree" in Biotechnology/Microbiology. The said rejection of the appellants/petitioner was contrary to the rules and the terms of the advertisement.

25. There is no quarrel with the proposition of law settled vide judgments, relied upon by the learned counsel for the private respondents, but the same fail to advance the case of the private respondents. In the present cases, the rule fixing the minimum educational qualifications for the post of Food Safety Officer is clear and did not require any interpretation. The rule making authority, in its wisdom, has laid down the minimum qualification for the post of Food .

Safety Officer and as per the relevant rule, a person is required to have inter alia "Degree" in Biotechnology/Microbiology subject.

Appellants/petitioner have "Master's Degree" in Biotechnology/ Microbiology and their candidature for the post of Food Safety Officer could not be rejected and they were liable to be considered for the post of Food Safety Officer.

26. Accordingly, LPA Nos.65 & 64 of 2020 and CWPOA No.1872 of 2020, are allowed. The Official respondents are directed to consider the cases of the appellants and petitioner (in CWPOA No.1872 of 2020), for the posts of Food Safety Officers and if they are, otherwise, found to be eligible and their names find place in the merit, then, they be appointed to the post of Food Safety Officer.

Pending miscellaneous application(s), if any, also stands disposed of.

(Sabina) Judge (Sushil Kukreja) Judge September 23, 2022 (ks)