

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**BENCH AT AURANGABAD****ORIGINAL APPLICATION NO. 1113 OF 2023**

DIST. : PARBHANI

1. **Shendge Santosh Nagnath,**
Age : 33 years, Occ. Nil- Education,
At Datta Nagar, Jintur Road,
Parbhani, Dist. Parbhani.
2. **Game Tukaram Bhagoji,**
Age : 31 years, Occ. Nil-Education,
At Sonna, Post : Mandakhali
Parbhani, Dist. Parbhani.
3. **Manisha Mahadev Gaikwad**
Age : 34 years, Occ. Nil-Education,
At Vrundavan Colony, Vasmat Road,
Parbhani, Dist. Parbhani.
4. **Khandare Sunil Prakash**
Age : 26 years, Occ. Nil-Education,
At Shishir Hostel, Vasmat Road,
VNMKAV, Parbhani,
Dist. Parbhani.
5. **Ganesh Prallad Gaikwad**
Age : 29 years, Occ. Nil-Education
At Krushi Sarthi Colony, Vasmat Road,
Parbhani, Dist. Parbhani.

.. **APPLICANTS****V E R S U S**

1. **The Commissioner,**
Directorate of Medical Education and
Research, Saint Georges Hospital
Compound, V.T. Mumabai 400 001.
2. **The State of Maharashtra,**
Through the Principal Secretary
Medical Education and Drugs
Department, Mantralaya,
Mumbai-400 032.

.. **RESPONDENTS.**

APPEARANCE :- Shri Ajay S. Deshpande, learned counsel
for the applicants.

: Shri V.R. Bhumkar, learned Presenting
Officer for the respondent authorities.

CORAM : **Hon'ble Shri Justice P.R. Bora,**
Vice Chairman
AND
Hon'ble Shri Vinay Kargaonkar,
Member (A)

DATE : **11.01.2024**

ORDER

[Per :- Justice P.R. Bora, V.C.]

Heard Shri Ajay S. Deshpande, learned counsel for the applicants and Shri V.R. Bhumkar, learned counsel for the respondent authorities.

2. The applicants had applied for the post of Dietician in response to the advertisement issued by respondent no. 01 on 10.05.2023. Common advertisement was issued for recruitment of various posts under the Directorate of Medical Education & Research. 19 posts were to be filled in of the Dietician. Applicants possess the qualification as B.Tech. (Food Technology). The applicants appeared for the examination and passed the same. In the meanwhile, some of the candidates had made a representation on 22.05.2023 to respondent no. 01

for modifying the qualification as prescribed in the advertisement for the post of Dietician. In the advertisement the qualification of B.Sc. (Home Science) is prescribed for the post of Dietician. The candidates, who made the representation, are possessing the qualification of B.Tech. (Food Technology), which according to them is equivalent to the qualification of B.Sc. (Home-Science). After having passed the written examination, the applicants were called for document verification and in the document verification when it was noticed that the applicants are not possessing the qualification as B.Sc. (Home Science), but are holding the qualification as B.Tech. (Food Technology/Food Science), the respondents held the applicants ineligible for appointment to the post of Dietician for want of having requisite qualification as prescribed in the advertisement. Aggrieved by the said decision, the applicants have approached this Tribunal with the present Original Application.

3. In the list published by respondent no. 01 on 21.12.2023, against the names of the applicants "remark has been endorsed that 'ineligible for not holding the qualification as B.Sc. (Home-Science)'. The applicants have sought quashment of the said remark and are seeking further directions against

the respondents to held them eligible for the post of Dietician and consider them for appointment on the said post in order of merit.

4. Respondents have filed the affidavit in reply, thereby resisting the contentions taken in the Original Application and the prayers made therein. It is contended in the said affidavit in reply that in the recruitment rules, as well as, in the Information Brochure it is nowhere mentioned that the qualification as B.Tech. (Food Technology/Food Science) is equivalent with the degree of B.Sc. (Home Science of Statutory University). It is further stated that after receiving the representations from the applicants, respondent no. 01 constituted a Committee of Experts on 12.12.2023 to examine and given opinion whether degree of B.Tech. (Food Technology/Food Science) is equivalent to the degree of B.Sc. (Home Science). It is further stated that the said Committee after deliberating on the said issue gave its opinion to the effect that for the post of Dietician considering the recruitment rules it would be appropriate to have the educational qualification as B.Sc. (Home Science) of the Statutory University. The committee has further recorded that for the post of Dietician degree of B.Tech. (Food Technology) cannot be held equivalent

to the qualification prescribed in the advertisement. It is further contended that course of B.Sc. (Home-Science) deals with Nutrition across the life cycle, Therapeutic Dietetics, Pathology of Disease, Specialized Dietetics, Research & Trends in Food, Nutrition & Dietetics are important subjects and related to Hospital, patient illness and illness diet. It is further contended that as per the recommendations of the committee, the respondents have disqualified the applicants on the ground that the applicants do not possess required qualification for the said post, which is specifically related to hospital and patient care.

5. Shri Ajay S. Deshpande, learned counsel appearing for the applicants vehemently argued that the prescription of obsolete qualification in the recruitment process without having due regard to the change in horizons in the field of education and the specializations in the respective fields has become detrimental to the interest of the applicants, as well as, similar many others. Learned counsel further submitted that the degree, which the applicants possess, is indeed more suitable and appropriate for holding the post of Dietician. Learned counsel further argued that immediately upon publication of the advertisement the applicants had represented respondent no.

01 that the degree of B.Tech. (Food Technology/Food Science) being equivalent to B.Sc. (Home Science), it should be incorporated in the eligibility column in the advertisement and the incumbents should be considered for their appointment based thereupon. Learned counsel further submitted that the qualification of B.Sc. (Home Science) is prescribed in the recruitment rules, which were notified in the year 1990. Learned counsel further argued that in the passage of time, several innovations have taken place and more exhaustive and advanced courses are introduced by the Universities.

6. Learned counsel further submitted that the concerned authorities have failed in taking note of changes, which have occurred in the field and thereby have deprived a large number of candidates possessing the degree of B.Tech. in Food Science or Food Technology. Learned counsel submitted that, the committee of experts constituted by Vasant Rao Naik Marathwada University, Parbhani, after having considered all related aspects has opined that degree of B.Tech. (Food Technology) is equivalent to the degree of B.Sc. (Home Science) and the curriculum of the said course of B.Tech. (Food Science) is inclusive of all related subjects and topics, which the person to be appointed on the post of Dietician is expected to study.

Learned counsel further submitted that as mentioned in the report of the aforesaid experts in various recruitment processes carried out in the State, the degree of B.Tech. (Food Science) is prescribed as requisite qualification. Learned counsel submitted that the committee appointed by the respondents does not consist of such experts and academicians.

7. Learned counsel submitted that by prescribing the only qualification as B.Sc. (Home Science) the respondents are depriving large number of competent candidates possessing the degree of B.Tech. (Food Science/Food Technology). Learned counsel further submitted that having considered the opinion of the experts, the rejection of the candidature of the present applicants by the respondents on the ground that they are not holding the requisite qualification, deserves to be quashed and set aside. Learned counsel submitted that all such candidates possessing the degree of B.Tech. (Food Science/Food Technology) need to be allowed to participate in the selection process, so as to have the best talent. Learned counsel pointed out that there are several Dieticians working in the various hospitals and the Medical Colleges, who are possessing the degree of B.Tech. (Food Science/Food Technology) and are providing best services. Learned counsel on the aforesaid

grounds prayed for allowing the O.A. in terms of prayer clause (B).

8. Shri Bhumkar, learned P.O. in his argument reiterated the contentions raised in the affidavit in reply filed on behalf of the respondents. Learned P.O. submitted that after the representation was received from the candidates possessing degree of B.Tech. (Food Technology/Food Science) to hold them eligible to be appointed on the post of Dietician, in other words to hold the qualification of B.Tech. (Food Technology/Food Science) equivalent to degree in BSc (Home Science), the committee of 8 members was appointed which was comprising of; (i) the Joint Director (Medical) Directorate of Medical Education and Research, (ii) Superintendent of G.T. Hospital and Professor in Forensic Science Department, (iii) Chief Administrative Officer in the Directorate of Medical Education and Research, (iv) Administrative Officer in the Directorate of Medical Education and Research, Mumbai, (v) S.N.S., Paricharya Vibhag, Directorate of Medical Education and Research, (vi) Dietician, Saint Georges Hospital, Mumbai, (vii) Dietician, Sir J.J.Hospital, Mumbai and (viii) Dietician, Sasoon General Hospital, Pune. The said committee after having deliberations on the issue of equivalence recorded an opinion

that for the post of Dietician, it would be appropriate to have the qualification of BSc (Home Science) of any Statutory University as provided in the recruitment rules. The Committee further recorded that the degree of Community Science as well as the B.Tech. (Food Technology/Food Science) shall not be held as the requisite qualification for the post of Dietician.

9. Learned P.O. submitted that in view of the opinion given by the committee of the aforesaid experts, the applicants have been held ineligible for the post of Dietician on the ground of not having the prescribed educational qualification. Learned P.O. submitted that in view of the aforesaid opinion, no fault can be found in the decision of respondent no.1 in declaring the applicants ineligible in the merit list published on 21-12-2023. Learned P.O. further submitted that, it is the prerogative of the State to prescribe educational qualification for any post under the Government and the State only can determine whether any other degree can be held equivalent to the qualification so prescribed in the recruitment rules. For the aforesaid reasons, learned P.O. prayed for dismissal of the O.A.

10. We have duly considered the submissions advanced on behalf of the applicants as well as the respondents. We have

also perused the documents filed on record. It is not in dispute that in the advertisement published on 10-05-2023 for the post of Dietician, the educational qualification prescribed is degree of BSc (Home Science) of any Statutory University. It is further not in dispute that, none of the applicants is possessing the said degree. All are holding the degree as B.Tech. (Food Technology/Food Science). In response to the aforesaid advertisement, though the applicants applied and also succeeded in written examination, ultimately, have not been considered for appointment on the subject post on the ground that they are not holding the qualification as prescribed in the advertisement.

11. It is the contention of the applicants that the qualification of B.Tech. (Food Technology/Food Science) is not only equivalent with the qualification of degree in BSc (Home Science) but is more advanced and progressive than the said degree course. As has been argued by Shri Deshpande, learned Counsel appearing for the applicants, the Committee of Experts was constituted by Vasant Rao Naik Marathwada Agriculture University, Parbhani consisting of 5 experts. The said committee in its exhaustive report has strongly recommended to hold the degree of B.Tech. (Food Technology/Food Science) to be

equivalent to the degree of BSc (Home Science). In other words, recommendation is made for prescribing the degree of B.Tech. (Food Technology/Food Science) as a requisite qualification for the post of Dietician.

12. As has been argued by Shri Deshpande, it is true that the qualification of BSc (Home Science) is provided for the post of Dietician in the recruitment rules, which were notified sometimes in the year 1992. Admittedly, there occurred no change in the said recruitment rules in the intervening period of 30 years. We have perused the said recruitment rules. In the qualification clause it is nowhere mentioned that the degrees equivalent to the degree of BSc (Home Science) shall also be held to be a requisite qualification. In the circumstances, it is quite evident that the persons holding the said qualification i.e. BSc (Home Science) only are eligible for making application for the said post. It is not in dispute that the applicants though were having some different educational qualification applied for the said post by mentioning the qualification as prescribed in the advertisement and hence were permitted to appear for the examination. Subsequently, however, when it was noticed that the applicants are not possessing the degree of BSc (Home Science) but are holding the degree of B.Tech. (Food

Technology/Food Science), respondents declared them ineligible for their appointment on the ground that they did not hold the requisite educational qualification as prescribed in the advertisement as well as in the recruitment rules.

13. The advertisement was published on 10-05-2023 and as has been contended by the applicants they had preferred a representation on 22-05-2023 thereby requesting respondent no.1 to prescribe the qualification of B.Tech. (Food Technology/Food Science) also to be the requisite qualification along with BSc (Home Science). As is revealing from the contents of the affidavit in reply filed on behalf of the respondents after receipt of the aforesaid representation, the respondent no.1 constituted one Experts' Committee on 12-12-2023 to examine whether both the degrees are equivalent to each other or not. We have noted hereinabove about the Members who were the part of that Experts Committee. The said Committee has candidly opined that the degree of Community Science or B.Tech. (Food Technology/Food Science) cannot be held to be equivalent to the degree of BSc (Home Science). The said Committee has also stated that the degree of B.Tech. (Food Technology/Food Science) shall not be held as a requisite qualification for the post of Dietician.

14. The Committee which was constituted by the Vasantrya Naik Marathwada Agriculture University, Parbhani comprising of 5 persons in the Medical field, performing their duties at the key posts in different Medical Colleges in the State, however, has recorded contrary opinion that the degree of B.Tech. (Food Technology/Food Science) is the degree which can be held to be equivalent to the degree of BSc (Home Science). According to the opinion of the said Committee, degree in B.Tech. (Food Technology/Food Science) is in fact more advanced and progressive degree course.

15. We have noticed that both the Committees; one constituted by the respondents herein and the another constituted by Vasantrya Naik Marathwada Agriculture University, Parbhani, both have assigned reasons which led to the conclusions recorded by them. The question, however, is, 'can this Tribunal decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed in the advertisement as well as in the recruitment rules?'

16. To some extent we are in agreement with the arguments advanced by Shri Deshpande, learned Counsel for

the applicants. Recruitment Rules for recruitment of Dietician are admittedly notified way back in the year 1992 i.e. prior to more than 30 years. There is substance in the contentions raised on behalf of the applicants that at the relevant time BSc (Home Science) was the only course run by the statutory universities. However, in the passage of time several innovations took place and several new courses came to be introduced by various universities and B.Tech. (Food Technology/Food Science) is one of such courses which have been introduced by various agricultural universities as well as State and National Institutions. In its report, the Committee formulated by Vasantao Naik Marathwada Agriculture University, Parbhani has elaborated the contents of the course of B.Tech. (Food Technology/Food Science). Said Committee has also specifically provided details of the curriculum and the subjects of degree in B.Tech. (Food Technology/Food Science) which are necessary for the post of Dietician. The opinion of the said Committee must have received due consideration by the State authorities.

17. In the report of the said Committee the names of the persons working on the post of Dietician at the Medical Colleges as well as several hospitals are distinctly provided. As is

revealing therefrom one Shri Ram Chavan is working in DMER Medical College Ambejogai since past 25 years as Dietician. Next person in the list, namely, Shri S.G.Solanki is stated to be working as Dietician for past 23 years in Civil Hospital, Buldhana, whereas Dietician Shri Pramod Patil is discharging duties as Dietician in Civil Hospital Beed since last 15 years. It further appears to us that having regard to the fact that various agricultural universities have introduced course of B.Tech. (Food Technology/Food Science), said degree cannot be kept out of consideration for the post of Dietician and there seems little logic in prescribing only one degree i.e. BSc (Home Science) as a requisite qualification. By doing so, the respondents have certainly deprived the candidates holding the degree of B.Tech. (Food Technology/Food Science) for to be considered for the post of Dietician.

18. Despite the facts as aforesaid and our *prima facie* opinion recorded above, the question remains 'whether this Tribunal can decide that a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed in the advertisement as well as in the recruitment rules ?'

19. In the case of **State of Rajasthan & Ors. V/s. Lata Arun [(2002) 6 SCC 252]**, Hon'ble Apex Court has ruled that, "*the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service, are the matters to be considered by the appropriate authority.*" In paragraph 13 of the said judgment Hon'ble Apex Court has held thus:

"13. From the ratio of the decisions noted above, it is clear that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority."

20. In one earlier decision in the case of **J. Ranga Swamy V/s. Government of Andhra Pradesh and Ors. [(1990) 1 SCC 288]**, the Hon'ble Supreme Court has held that, "*it is not for the court to consider the relevance of qualification prescribed for various posts.*"

21. In the case of **Mohammad Shujat Ali & Ors. V/s. Union of India & Ors. [(1975) 3 SCC 76]**, the Hon'ble Supreme Court has held thus:

“the question regarding equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standards and practical attainments of such qualifications. It was further held that where the decision of the Government is based on the recommendation of an expert body, then the Court, uninformed of relevant data and unaided by technical insights necessary for the purpose of determining equivalence, would not lightly disturb the decision of the Government unless it is based on extraneous or irrelevant considerations or actuated mala fides or is irrational and perverse or manifestly wrong.”

22. In the present matter, admittedly, there are 2 opinions on record. Both are coming from the experts in the field. Admittedly, there is nothing on record to show any *mala fides* attributed against the Members of the Expert Committee constituted by the respondents and also against the body of Experts constituted by Vasant Rao Naik Marathwada Agriculture University, Parbhani. However, to prescribe a qualification for any particular post is the matter within the domain of recruiting authority and it has to determine which would be the best suitable qualification according to the requirements.

23. In the case of **Zahoor Ahmad Rather & Ors. v. Sheikh Imtiyaz Ahmad & Ors.**, [(2019) 2 SCC 404], the Hon'ble Supreme Court has held thus:

“the State, as an employer, is entitled to prescribe qualifications as a condition of eligibility, after taking into consideration the nature of the job, the aptitude required for efficient discharge of duties, functionality of various qualifications, course content leading up to the acquisition of various qualifications, etc. Judicial review can neither expand the ambit of the prescribed qualifications nor decide the equivalence of the prescribed qualifications with any other given qualification. Equivalence of qualification is a matter for the State, as recruiting authority, to determine.”

The Tribunal, thus, certainly cannot go into such questions.

24. Moreover, it cannot be lost sight of that the recruitment process is on the verge of its completion. As has been informed at the bar, the documents are also verified of the candidates and the only part which remains is that of issuance of orders of appointments. It was rightly argued by Shri Bhumkar, learned P.O. that there may be several other candidates possessing the degree of B.Tech. (Food Technology/Food Science) who did not apply after having noticed that the qualification prescribed for the subject post is

BSc (Home Science), which they do not possess. If the contentions of the present applicants are to be accepted and if qualification held by them is to be held the equivalent qualification then the candidates as mentioned above, who did not apply for the post inspite of holding same qualification as the applicants are holding, may also be required to be extended an opportunity to apply for the subject post. If this has to be done the entire recruitment process will have to be commenced afresh. To direct the respondents to adopt such course at this stage is practically not possible. We do not desire to disturb the recruitment process which is on the verge of its completion. We, however, do not refrain ourselves from expressing that the issue raised by the applicants in the present O.A. deserves serious consideration by the State authorities, before the future recruitments.

25. For the reasons stated above, the Original Application deserves to be dismissed.

[Per :- Shri Vinay Kargaonkar, Member (A)] (Concurring)

26. The evolution of society, technology, and professional requirements often render recruitment rules and qualifications outlined decades ago obsolete or less relevant in the current context. The static nature of these rules fails to

adapt to the changing education system, leading to several discrepancies and inefficiencies.

27. Firstly, advancements in technology have dramatically transformed various industries. Roles in fields like healthcare, administration, or even manufacturing have significantly evolved, demanding a different skill set that might not align with qualifications in the recruitment rules from 3 decades ago. Qualifications and rules designed three decades ago certainly lack contemporary academics, technology and aptitude which are critical in today's work environments.

28. Moreover, the pace of change in knowledge and education system has accelerated. Fields such as medicine, engineering, and information technology have witnessed rapid advancements, leading to updated curriculums, new specializations, and emerging disciplines. Outdated qualifications might not encompass these new areas of expertise, causing a gap between the knowledge required for the job and what the old qualifications offer.

29. Lastly, changes in legislation, policies, and regulations over the past three decades have also influenced job requirements and academic environment. New legal frameworks, safety standards, and ethical guidelines often

necessitate a different skill set or understanding that might not have been prevalent or emphasized in the older qualification guidelines.

30. In conclusion, while the recruitment rules and necessary qualifications set 30 years ago served their purpose at the time, the dynamic nature of society, technology, education, and work environments have rendered them outdated. Adaptability, relevance, and inclusivity are crucial factors to consider when revising these rules to ensure they align with the current context and effectively meet the demands of today's rapidly evolving professional landscape.

31. However, I agree with the observations made in paragraph 24 as well as the conclusion recorded in paragraph 25 of this order by learned Vice Chairman.

32. Hence, the following order is passed:

ORDER

Original Application is dismissed, however, without any order as to costs.

(VINAY KARGAONKAR)
MEMBER (A)

(P.R.BORA)
VICE CHAIRMAN

Place : Aurangabad

Date : 11-01-2024.