

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 194/2015

Jairam Pancham Kelwade,
Aged about 43 years,
Lecturer in Electronic and
Telecommunication De-ptt.,
R/o C1/4, Government Employees Quarters,
Ravi Nagar, Nagpur. -----**Applicant.**

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
Deptt. of Higher and Technical Education.
Mantralaya, Mumbai.
2. The Maharashtra Public Service Commission,
Cooperage Telephone Exchange Building,
8th Floor, Marshi Karve Road,
Cooperage, Mumbai, through its
Chairman. ----- **Respondents.**

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1. Shri P.S. Wathore, Advocate for the applicant.
 2. Smt. M.A. Barabde, Presenting Officer for the Respondents.
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CORAM : B. Majumdar : Vice Chairman
and

S.S. Hingne : Member (J)

DATE : 33rd 2nd May, 2016

ORDER**PER VICE-CHAIRMAN**

The applicant has filed this O.A. as he is aggrieved that he was not called for an interview for the post of Head of Department (Electronic Engineering), Govt. Polytechnic, Nagpur due to the reason that he does not have a prescribed experience of 10 years.

2. The applicant obtained his degree of M.E. in Digital Electronics in first class as per his mark sheet dtd. 30/7/2008. The All India Council of Technical Education (AICTE) on 5/3/2010, issued a notification with regard to the norms for different teaching posts in Diploma Level Technical Education. With regard to Head of Department (Engineering/Technology) the following qualification is prescribed :-

Qualification

Experience.

Head of Department Engineering/ Technology	Bachelor's and Master's Degree of appropriate branch in Engineering/ Technology with First Class of equivalent either Bachelor's or Master's level	Minimum of 10 years relevant experience in teaching/research/ industry.

	<p>OR</p> <p>Bachelor's degree and Master's degree of appropriate branch in Engineering/Technology with First Class or equivalent either Bachelor's or Master's level and Ph.D or equivalent, in appropriate discipline in Engineering/Technology</p>	<p>Minimum of 5 years relevant experience in teaching/research/industry.</p>
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3. The recruitment rules, namely, the Principal, Head of Department, Lecturer and Workshop Superintendent in Govt. Polytechnics and Equivalent Institutes (Recruitment) Rules, 2012, were notified under proviso to Article 309 of the Constitution of India on 10/9/2012. Rule 4 deals with appointment to the post of Head of Department by nomination and the following conditions are prescribed :-

- a) Not more than 50 years of age;
- b) Possess the qualification in the related branch of Engineering or Technology and experience as prescribed by AICTE or relevant statutory body for the concerned post from time to time.

4. On 27/7/2013 MPSC (R/2) issued an advertisement, *inter alia*, for 1 post of Head of Department (Electronics) in Govt. Polytechnic. The applicant applied for the post and was called for interview scheduled on 21/4/2015. According to the applicant, he had reported for the interview but was not interviewed. Aggrieved thereby he has filed this O.A.

5. Another candidate viz., Mayur S/o Sham Dhait who had also applied for the same post had filed O.A.. No.731/2014. The Tribunal on 29/10/2014 by way of an interim order directed that appointment if any made to the above post, will be subject to the outcome of the present O.A.

6. The applicant submits that he had worked as a Lecturer in Electronic Engineering from 2/9/1998 to 22/1/2010 in the Datta Meghe College of Engineering, Airoli, New Mumbai and presently he is working as a Lecturer in the same subject in the Govt. Polytechnic, Nagpur. According to him, he has approximately 15 years of experience and hence he cannot be disqualified on the ground that he does not possess the

requisite minimum experience of 10 years as per the advertisement and recruitment rules as also regulations of AICTE. Further he had registered for Ph.D. as a Research Fellow on 14/2/2011 and hence taken together, it cannot be said that he does not possess experience of a minimum of 10 years. Thus, according to him, his application is rejected in violation of the recruitment rules and other regulations.

7. R/2,MPSC in its affidavit-in-reply submits as follows :-

Para 20 : *“ I say and submit that, general instructions to the candidates have been provided on the Commission’s website www.mpsc.gov.in to the candidates. Para 2.2.12.2 mentions the provision as follows :-*

‘Experience required for the respective post (where specifically not mentioned) should be after acquiring the requisite educational qualifications of the post advertised, as per the Govt. of Maharashtra in General Administration Department’s Circular No.RTR-1079/1160-XII, 18/7.1979.’

The required qualifications for the post are that a candidate must possess Bachelor's and Master's Degree in the appropriate branch of Engineering/ Technology with First Class or equivalent either at Bachelor's or at Master's level as per the recruitment rules.

Thus as per the recruitment rules, one has to have both the Bachelor's and the Masters Degree in first class either at BE or ME level as a compulsory requirement. Therefore, the experience for the post was counted after acquiring the Master's Degree as per the Government circular dated 18/7/1979.

In the present case the applicant possesses Master's Degree in Engineering-Digital Electronics on 30/7/2008. Taking into consideration the date of declaration of the result of the Master's Degree, the applicant did not possess the requisite experience of 10 years on the day of determination. Therefore, the applicant was held in-

eligible for want of experience and was not interviewed.”

Thus, according to R/2, the applicant does not hold the prescribed minimum experience of 10 years after obtaining his Master's Degree.

8. Shri P.S. Wathore, Id. Counsel for the applicant submitted that the recruitment rules prescribed that experience should be as prescribed by AICTE. The relevant notification of AICTE dtd. 5/3/2010 prescribes a minimum experience of 10 years. It nowhere states that the said experience is required to be counted after obtaining the requisite educational qualification. Thus, the respondents could not have rejected the applicant's case merely on the ground that he does not have the prescribed experience after obtaining his Master's Degree in 2008.

9. Smt. M.A. Barabde, the Id. P.O. reiterated the submissions made by R/2 in his affidavit-in-reply.

10. We find that two facts are undisputed, viz., the applicant did not possess 10 years' experience after he had obtained his M.E. Degree in Digital Electronics in 2008, and the only reason why his application was rejected was that he did not have the prescribed experience of 10 years after obtaining the minimum prescribed qualification, i.e., a Master's Degree. The advertisement issued by R/2 states the required educational qualification and experience as below :-

४.३ शैक्षणिक अर्हता व अनुभव :

(A) (i) Bachelor's and Master's degree of appropriate branch in Engineering/ Technology with First Class or equivalent either at Bachelor's or Master's level.

(ii) Minimum of 10 years relevant experience teaching/research/ industry.

OR

(B) (i) Bachelor's and Master's degree of

***Appropriate branch in Engineering/
Technology with First Class or
equivalent either at Bachelor's or
Master's level and Ph.D. or
equivalent in appropriate discipline
in Engineering/Technology.***

***(ii) Minimum of 5 years relevant
experience in teaching/research/
industry.***

11. MPSC in its reply which we have reproduced earlier, has relied on para 2.2.12.2 of the general instructions to the candidates as uploaded at the Commission's website which states as follows :-

"Experience required for the respective post (where specifically not mentioned) should be after acquiring the requisite educational qualifications of the post advertised, as per the Govt. of Maharashtra in General Administration Department's Circular ANo.RTR-1079/1160-XII, 18/7/1979."

12. The G.R. dtd.18/7/1979 is entitled as “ Condition regarding experience prescribed as an essential qualification for recruitment to various posts – clarification regarding –”. It quotes the Govt. circular dtd. 31/8/1972 that in all the existing recruitment rules wherever experience for a specified period has been prescribed as an essential qualification, the experience gained after acquiring the basic academic qualifications prescribed should alone be counted towards the specified period and that the experience gained prior to acquiring those qualifications should be ignored, unless it is expressly provided in the recruitment rule or experience is to be reckoned in terms of capacity of Lecturer, Professor, etc. in respect of teaching posts. It then directs all Departments of Mantralaya to incorporate a suitable modification in the recruitment rules in line with the above and it also further directs that this should then be communicated to the MPSC during the process of the recruitment. Accordingly this



condition has been specified in the general instructions accompanying the advertisement dated 27/7/2013.

13. It is thus clear that the applicant's experience prior to his obtaining the degree of M.E. in 2008 cannot be counted for the purpose of fulfilling the condition of minimum 10 years' experience and he had less experience when he applied for the post. The applicant submits that the AICTE notification does not state whether the required qualification should be before or after acquiring the prescribed qualification. This, in our view is irrelevant as the 1979 G.R. lays down the State Policy in this regard. We therefore find that MPSC has rightly declared the applicant as unqualified. The O.A. is devoid of any merit and stands rejected with no order as to costs.

Sd/-

(S.S. Hingne)
Member (J)

Sd/-

(B. Majumdar)
Vice-Chairman.

Skt.