

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 204 / 2015 (D.B.)

- 1) Matter decided vide order dated 10/03/2017.
- 2) Matter decided vide order dated 10/03/2017.
- 3) Ramesh Diwakarrao Moon,
Aged about 39 yrs.,
Occ. Service, R/o At and Post Zadgaon,
Tehsil and District Wardha.
- 4) Matter decided vide order dated 10/03/2017.
- 5) Vasant Anandrao Chavan,
Aged about 48 yrs.,
Occ. Service, R/o Vidharbha Colony, L/29,
Near Mainde Square, Yavatmal.

(The matter is remanded back by Hon'ble High Court Bombay, Bench at Nagpur, so far as applicant nos. 3 & 5 are concerned for deciding the same afresh as per the law.)

Applicants.

Versus

- 1) State of Maharashtra,
Through its Secretary,
Department of Higher and Technical Education,
Mantralaya, Mumbai- 400 032,
- 2) The Secretary,
Maharashtra Public Service Commission,
Bank of India Building, 3rd Floor,
Mahatma Gandhi Road, Hutatma Chowk,
Mumbai-400 001.
- 3) The Deputy Secretary,
Maharashtra Public Service Commission,
Bank of India Building, 3rd Floor,
Mahatma Gandhi Road, Hutatma Chowk,
Mumbai-400 001.
- 4) Shri Pravin Pundlikram Karde,
Aged about Major,
Occ. Service, R/o Karde Bhavan, Baccharaj Plot,
Near Dhabebai Hospital,
Cotton Market Road, Amravati.

Respondents

Shri A.M.Sudame, the Id. Advocate for the applicants.

Shri P.N.Warjurkar, the Id. P.O. for the respondents.

**Coram :- Hon'ble Shri Shree Bhagwan, Vice Chairman.
Hon'ble Shri A.D.Karanjkar, Member (J).**

JUDGMENT

PER : Member (J)

Judgment is reserved on 13th Sept. 2019.

Judgment is pronounced on 24th Sept. 2019.

Heard Shri A.M.Sudame, Id. counsel for the applicant and Shri P.N.Warjurkar, Id. P.O. for the respondents.

2. This O.A. was heard and dismissed by this bench on 10-3-2017. The applicants No.3 & 5 challenged this order in W.P. No.292/2018. The Hon'ble High Court decided the writ petition No.292/2018 on 24th June 2019 and quashed the order passed by this bench on 10-3-2017 so far as the applicants No.3 & 5 are concerned and directed to decide the case of applicants No.3 & 5 as per law.

3. We have heard Shri. A.M. Sudame the learned counsel for the applicants No.3 & 5 and Shri P.N. Warjurkar learned P.O. on behalf of the respondents No.1 to 3. It is contention of the learned counsel for the applicants 3 & 5 that erroneous decision was taken by the respondents No.1 to 3 that the applicants No.3 & 5 were not possessing 10 years teaching experience, therefore, they were not eligible to apply for the post of the Head of the Department in the concerned subject. It is submitted that it was stand of the respondents No.1 to 3 that the candidate must possess the 10 years teaching experience after acquiring post graduate degree and the teaching experience before acquiring post graduation degree was of no use. It is contended that this view of the respondents No.1 to 3 was erroneous, therefore, it has caused grave prejudice to the applicants No.3 & 5.

4. The learned counsel for the applicants No.3 & 5 has placed reliance on the judgment delivered in W.P. No.1538/2018 by Hon'ble Bombay High Court on 25-6-2019. We have perused this judgment, the writ petition was filed by applicants No. 2 & 4 to challenge the

order passed in O.A. No.204/2015 on 10-3-2017. The contention of the applicants No.2 & 4 that their teaching experience after acquiring graduation degree should have been considered while computing the 10 years teaching experience; was turned down by this bench. It is submission of the applicants No.3 & 5 that now this contention of the applicants No. 2 & 4 is accepted by the Hon'ble High Court, therefore, case of the applicants No.3 & 5 be examined as per the judgment delivered in W.P. No. 1538/2018.

5. The learned counsel for the applicants No.3 & 5 invited our attention to condition 4.3 (A) in the advertisement which is as under:-

"[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 in teaching/research/industry."

The Hon'ble High Court after considering Government Circular dated 18-7-1979, observed in para 9 as under :-

"9. A careful reading of the clarification given above would show that it is the experience gained after acquiring basic academic qualifications prescribed in advertisement which alone should be calculated towards specifying period, and that the experience gained prior to acquiring these qualifications should be ignored, unless the recruitment rule provides otherwise."

The Hon'ble High Court ultimately came to the conclusion that an expression " basic qualification" be considered as the qualification which is minimum qualification necessary for a person to start his career at the lowest teaching level in the academics. It was held that Bachelor's degree in Electronics Engineering or Technology would be a qualification of basic nature, therefore, the experience of 10 years would have to be calculated from after the period which followed the date on which the said basic qualification was acquired by the candidate.

6. In view of the legal position as explained above, we would like to consider whether the applicant No.3 & 5 were eligible to apply for the post. Anx. R-2 (page No.209 of the P.B.) is the consolidated statement of educational qualification and experience and remarks, of all candidates. The details of the applicant No.3 are at Sr. No.3, as under:-

Sr. No.5 Moon Ramesh Diwakarrao- B.E. Electronics First class 19-7-1997

M.E. Electronics Pass class 14-7-2003

Experience-Lecturer in Electronics Engineering - 12-7-2000 to 19-7-2006.

Jr. Engineer from 20-7-2006 to 31-12-2009.

Assistant Engineer from 1-1-2010 to 18-11-2010.

Lecturer in Electronics from 19-11-2010 to 31-8-2013.

Lecturer from 1-9-2013 to 22-10-2013.

7. The learned P.O. submitted that as per advertisement the experience in teaching/research/industry was relevant and experience as Jr. Engineer or Assistant Engineer was not relevant. It is contention of learned P.O. total teaching expiring of the applicant No.3, after acquiring Bachelor's degree, as lecturer was less than 10 years, therefore, there is no substance in his contention that the action of the respondents No. 1 to 3 is illegal. On perusal of the Anx. R-2 we accept submission of the leaned P.O. that the applicant No.3 was not possessing 10 years experience either in teaching or research or industry, therefore, we do not see any merit in his case.

8. So far as applicant No.5 is concerned, his details are given at Sr. No.6 in Anx. R- 2 as under:-

Chavan Vasant Anandrao

B.E. Electronics First Class – 16-10-1989.

M.E. Electronics First Class – 9-11-2011.

Diploma in Electrical Engineering – 30-4-1986.

Experience:-Lecturer from 3-8-1990 to 2-8-1998.

Senior Lecturer from 3-8-1998 to 5-7-2003.

Jr. Engineer from 16-7-2003 to 23-10-2013.

9. It is submitted by the learned counsel for the applicants No.3 &5 that after acquiring Bachelor's degree in electronics engineering he worked as lecturer from 3-8-1990 to 2-8-1998 & as Senior Lecturer from 3-8-1998 to 5-7-2003 and apparently this teaching experience was more that 10 years, therefore, decision of the respondents No.1 to 3 disqualifying this applicant is bad in law. The learned P.O. submitted that so far as applicant No.5 is concerned, he had 10 years teaching experience, therefore, the decision is contrary to the law laid down by the Hon'ble High Court.

10. In view of the facts and circumstances we are of the firm view that the applicantNo.3 did not have 10 years teaching experience as per the advertisement, therefore, he

was rightly held not eligible for the post. But so far as the applicant No. 5 is concerned the decision of the respondents was wrong, the applicant No. 5 was possessing 10 years teaching experience and he was eligible for the post. Hence the following orders:-

ORDER

1. We therefore, direct the respondent No. 2 to consider candidature of the applicant No. 5 for appointment as Head of the Department in Government Polytechnic, Group A service as per the terms and conditions in advertisement No.63 to 68 of 2013. The applicant no. 3 is not entitled for any relief and his prayer is dismissed.
2. No order as to costs.

(Shri A.D.Karanjkar)
Member (J)

(Shri Shree Bhagwan)
Vice Chairman

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.
Court Name : Court of Hon'ble Vice Chairman & Hon'ble Member (J).
Judgment signed on : 24/09/2019.
and pronounced on
Uploaded on : 25/09/2019.