

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.261 OF 2015

DISTRICT : MUMBAI


Mr. Shashikant Rajaram Panke.)
Age : 49 years, presently residing at)
S.R. Panke, Raj Mudra Shikshak Colony,)
Osmanabad 413 501.)
Notice be Served to :)
C/o. Madhav V. Thorat, 3/B, C & D,)
2nd Floor, 35, Ambalal Doshi Marg, Fort,)
Mumbai 400 023.)...**Applicant**

Versus

1. The Maharashtra Public Service)
Commission, Bank of India Building,))
3rd Floor, M.G. Road, Hutatma Chowk))
Fort, Mumbai 400 001.)
2. Shivaji University.)
Through its Vice Chancellor,)
Vidyanagari, Kolhapur 416 004.)...**Respondents**

Shri M.V. Thorat, Advocate for Applicant.

Smt. K.S. Gaikwad, Presenting Officer for Respondents.



CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)

DATE : 15.07.2016

PER : R.B. MALIK (MEMBER-JUDICIAL)

ORDER

1. This Original Application (OA) seeks the relief of the Applicant being called for interview for the post of Head of the Department in Government Polytechnic College in the subject of Electronics and if he stands in merit, then to recommend his name as a duly selected candidate to the said post.

2. We have perused the record and proceedings and heard Shri M.V. Thorat, the learned Advocate for the Applicant and Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.

3. The issue involved in this OA is basically with regard to the eligibility of the Applicant for the said post. The issue of equivalence in as much as the Applicant is strictly speaking not a graduate in Engineering will also arise for consideration. The Applicant did his B.Sc. from



Shivaji University, Kolhapur in Physics in 1985 while the MPSC is the 1st Respondent hereto. The Shivaji University, Kolhapur is the 2nd Respondent. The copy of the degree of B.Sc is at Exh. 'A' hereto (Page 13 of the paper book). The Applicant then did his MSc in Physics (Advance Electronics) in 1987. In fact, ex-facie the degree, Advance Electronics has not been mentioned therein, but there are other documents which we shall consider presently which may bear out this particular fact. A copy of the degree of MSc is at Exh. 'B' (Page 14 of the P.B.). Digressing from the discussion about his academic achievements, at this stage, it may be noted that the Applicant came to be appointed as a Lecturer for Teaching Electronics in Terna Engineering College, Osmanabad on 13.8.1987. It is his claim that the UGC duly approved him as a Lecturer in Physics Electronics. It is, therefore, very clear that the Applicant has been working as a Lecturer ever since 1987 in Electronics. Now, the case of the Applicant is that in so far as the Shivaji University is concerned, the course of graduation in Electronics was not available when he was a student. Pertinently, Shri Shivaji C. Ghatage who has filed Affidavit-in-reply on behalf of the 2nd Respondent – Shivaji University, Kolhapur has given out the details of how a candidate holding a degree with experience as therein mentioned would be deemed to be Masters in Electronics.

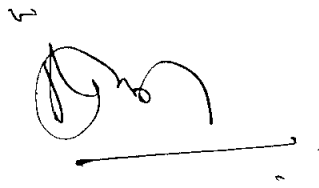


The Applicant has pleaded inter-alia that till 1987, for the reason just mentioned, the Engineering teaching staff was selected from those that had the qualifications of B.Sc and M.Sc. The B.E. Electronics Branch was for the first time launched in 1987 and he has also given some kind of an example of M.B.B.S degree. It is his case that since B.E. Electronics was newly introduced in 1987, a search was on for the candidates possessing either the qualification and/or knowledge or both in Electronics, so that teaching staff could be made available. The 2nd Respondent introduced a course of 9 subjects which fact is also clearly admitted on behalf of the Respondent No.2 also and these were for preparatory to M.E. which would enable those candidates who cleared all the nine subjects to be eligible to take full time course in M.E. In such circumstances, the Applicant secured what has been described as equivalence from the 2nd Respondent and did his M.E. in Electronics. The Applicant has claimed that UGC also approved the Applicant as Lecturer in Electronics for which there are documents which we shall presently refer to in order to complete the discussion. The Applicant came to be promoted as Associate Professor in Terna College in the year 1998. An advertisement came to be published in 2013 for the said post. 38 posts were advertised. We shall presently deal with this aspect to the extent merited

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hereby. The Applicant cleared the written examination which was held for the said post. He was called for interview but ultimately he was not interviewed. He brought this OA and by an interim order of 5.5.2015, this very Bench directed the 1st Respondent to allow the Applicant to appear for the interview for the said post. It was, however, directed that the result of the Applicant would not be declared till the decision hereof and one post of the Head of the Department in Electronics was directed to be kept vacant though results of the other posts could be declared.

4. We have mentioned a short while ago that there are certain documents about the Post Graduate qualification obtained by the Applicant. At Exh. 'C' (Page 15 of the P.B.), there is a communication from the Respondent No.2 to the Applicant himself dated 3rd August, 1992 informing him that the Applicant was eligible for M.E. (preparatory course). At Exh. 'D' (Page 16 of the P.B.), there is a statement of marks obtained by the Applicant in M.E. Electronics (Revised Preparatory Examination) held in December, 1993. This was for the candidates who had passed the M.Sc. (Physics) with Electronics Specialization. While we read the Post Graduate Degree of the Applicant (M.Sc.), we had mentioned that on the face of it, there was

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nothing to show that he did it in Electronics, but this particular document which is currently under discussion would make it quite clear that, that the Applicant did M.Sc. with Physics in Electronics Specialization. At Exh. 'E' (Page 17 of the P.B.), there is a degree certificate of Master of Engineering in Electronics conferred on the Applicant by the 2nd Respondent. Now, it needs to be noted that these documents were obtained of late (4th April, 2015). The reason has been kept obscure. It could be that either those testimonials were not taken at that time or may be some other reason. Though these documents were secured belatedly but nobody disputes these documents as documents, and therefore, we are convinced that we can safely act thereupon.

5. Proceeding further, we find that in so far as the degree of M.E. in Electronics is concerned, the seat number of the Applicant was 531766. The corresponding statement of marks would show quite clearly that the Applicant cleared Master of Engineering in Electronics in November/December, 1996 in first Division. The same seat number appears on the left side atop. At Exh. 'F' (Page 19 of the PB), there is a communication from Dr. Babasaheb Ambedkar Marathwada University dated 4.7.2001 addressed to the Administrative Officer of Terna



Public Charitable Trust, Osmanabad in whose College, the Applicant was teaching as already mentioned above. It was thereby informed that the Vice-Chancellor accorded approval to Applicant's appointment as Lecturer in Electronics from the academic year 1997-98, "as he obtained M.E. Electronics degree in Engineering" in the year 1997. The last three lines of that letter, however, indicated that Applicant's promotion as Assistant Professor in Electronics could not be approved because the management did not follow the procedure laid down in the G.R. of 23rd September, 1990. It is, however, quite clear that although that might have been some kind of a temporary disability, but it did not get permanently attached to the Applicant nor did it haunt him for good because later on, he was actually promoted.

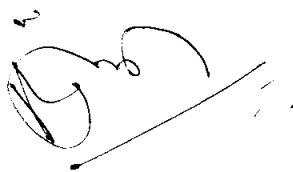
6. Two factual deductions of some moment quite clearly appear. In the first place, the Applicant indisputably secured Masters in Engineering about which fact, there can be no dispute at all and the same is established by the source of the documents of unimpeachable veracity. Secondly, the Applicant was quite clearly and again indisputably working as a Lecturer in a College which was duly approved by the Universities

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including Dr. Babasaheb Ambedkar Marathwada University as well as UGC.

7. In the Affidavit-in-reply of Respondent No.2, it is clearly admitted that the said University introduced M.E. preparatory as an eligibility condition for admission to M.E. Programme and M.E. programme meant M.E. Electronics Degree by paper / by research and the candidates holding M.Sc. degree could qualify for the said Post Graduate Engineering Course. Let us read a passage.

“I state that the qualified teachers having M.E. Electronics degree were also not available to teach this course. Therefore from the available records, I state that those candidate fulfilling prescribed qualification and experience criteria (mentioned at para No.3) were held eligible to get admission to M.E. course. Therefore, I state that the Respondent No.2 has given letter to the applicant dated 3rd August 1992, stating that he is eligible for admission to M.E. preparatory course, which is again as per the eligibility criteria.

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I state that the applicant had later completed M.E. preparatory course of one year in Dec. 1993 from the respondent No.2 University. I state that the M.E. preparatory course Marklist and letter of eligibility does not show that M.E. preparatory course is equivalent to B.E. course.”

8. In that Affidavit, it is further emphasized that the M.E. preparatory course of one year was not treated as a separate degree nor was it considered equivalent to B.E. Degree, but it is equally clearly pleaded that the Applicant ultimately completed M.E. Degree for which the documents have also been referred to hereinabove.

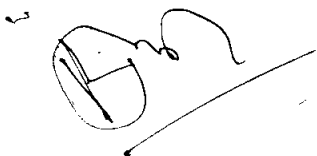
9. The State of Maharashtra issued a G.R. on 9th July, 2013 pertaining to equivalence in Engineering and Technical Courses. In so far as we are concerned, the relevant aspect is non-Ph.D and the Chart therein has got the various columns viz. Serial Number Engineering Branch / other courses equivalence in Graduation and equivalence in Post Graduation. Serial No.4 reads as follows :

I	II	III	IV
8.	Electronics Engineering & /Electronics Telecommunication	Electronics Engineering & Electronics Telecommunication	Electronics VLSI & Embedded SYS Digital System, Signal Processing,

	Engineering	Digital Electronics, Electronics & Communication Industrial Electronics Communication Engineering	Communication Network Microwave Power Electronics Communication Engineering Electronics Design Tech Electronics & Telecom Digital Electronics.
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10. The above discussion which is in our view sufficiently detailed would show inter-alia that the degree B.E. or B.Tec. was some kind of a deemed one as far as the Applicant is concerned. Although detailed reasons have been set out in the OA, in trying to emphasize that because of those reasons, the Applicant could be taken to be an Engineering Graduate in terms that does not appear to be so. However, it is equally true that as far as the Post Graduation in Engineering is concerned, legally and factually, there can be no question mark on the said qualification having been acquired by the Applicant. Legally this is how the matter stands and we are concerned herein only with the legality aspect of the matter.

11. Now, in the above background, let us turn to the Advertisement and we are concerned with Advertisement No.67/13, dated 27th September, 2013 which pertinently was issued after the G.R. last referred to dated 9th July, 2013 to which the equivalence chart was annexed. Clause 4.3 deals with educational qualifications and experience. In so far as the experience aspect of the matter is



concerned, the Applicant clearly is not found wanting. We may now deal with "A" which deals with educational qualification for the said post. We are not concerned with "B" because that deals with those that are the holders of Ph.D. "A" reads as follows :

"(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."

(emphasis supplied)

12. While it is no doubt true that somehow or the other holding of Master's degree does not seem to include within itself Bachelor's degree in the said Advertisement and in the first limb, it appears that the candidate must hold Bachelor's and Master's degree both. In this behalf, our conclusions hereinabove need to be recalled. However, post disjunctive, "or" the contents of the same in our view clearly and unequivocally make the Applicant eligible because of the findings of fact hereinabove based on documents of unimpeachable veracity. In fact, as far as the first limb is concerned, the Applicant holds the degree



of B.Sc. in Physics and in that behalf, the Affidavit of Respondent No.2 which has already been discussed above does not quite clearly set out their case. But in as much as we have to decide this matter on hard facts rather than academics, we are very clearly of the opinion that howsoever hard, the learned P.O. might try to salvage the case of the Respondents, it will have to be held that the Applicant cannot be held to have been lacking in the qualification, if the said Clause in the Advertisement is read as a whole.

13. For the foregoing, therefore, we hold that the move of the Respondents declining to interview the Applicant initially was unsustainable, and therefore, in whichever way the prayer Clause may have been worded, within the ambit of the OA an efficacious relief is something that the Applicant is entitled to. It needs to be recalled that certain events took place, after we, in this Bench granted interim relief. The final order will, therefore, take care of these facts and circumstances.

14. The Applicant is hereby held entitled and eligible for being considered for the said post (Head of the Department in Government Polytechnic College in the subject of Electronics). The sealed cover may now be

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opened and if the Applicant has made it, then his name be recommended and further steps be taken to appoint him within two months from today, but if he has not been able to make it, then the things would be left at that. The Original Application is allowed in these terms with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
15.07.2016

Sd/-

(Rajiv Agarwal)
Vice-Chairman
15.07.2016

Mumbai

Date : 15.07.2016

Dictation taken by :

S.K. Wamanse.

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