

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO. 1107 OF 2013

DISTRICT :PUNE

- 1] Smt. Archana Kamlesh Biwal,)
2] Dr. [Smt.] Vandana Manish Joshi,)
Both are working as Lecturer,)
Travel and Tourism,)
Having Office at Maharashtra)
State Institute of Hotel)
Management and Catering)
Technology, Pune-16.)
Address For Service Of Notice:-)
Shri Arvind V. Bandiwadekar,)
Advocate, Having Office at 9,)
"Ram-Kripa", Lt. Dilip Gupte Marg)
Mahim, Mumbai – 400 016.)...**Applicant**

VERSUS

- 1] The Chairman/ Secretary,)
Maharashtra Public Service)
Commission, [M.S.], Mumbai,)
Having Office at 3rd Floor,)
Bank of India Building,)
M.G. Road, Fort,)
Hutatma Chowk,)
Mumbai – 400 001.)
2] The State of Maharashtra,)
Through Principal Secretary,)
Higher and Technical)
Education Department,)
Having Office at Mantralaya,)
Mumbai – 400 032.)

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3] The Director,)
 Technical Education)
 Directorate, [M.S.], Mumbai,)
 Having Office at Mumbai-1.)....**Respondents**

Shri A.V. Bandiwadekar, learned Advocate for the Applicant.

Shri A.J. Chougule, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal, Vice-Chairman
Shri R.B. Malik (Member) (J)

DATE : 22 .01. 2016

PER : Shri Rajiv Agarwal, Vice-Chairman

O R D E R

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. This O.A. has been filed by the Applicants seeking quashing of advertisement dated 9.10.2013 issued by the Respondent No.1 to the extent that requirement of qualification of Bachelor's degree in Travel and Tourism, Hospitality Management, Hotel Management and Catering Technology may be declared invalid and the Master's degree in Tourism Administration may be declared to be the requisite qualification in terms of Rule 4 of the Principal, Head of the Department, Lecturer and Workshop

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Superintendent in the Government Polytechnics and Equivalent Institutes (Recruitment) Rules, 2012.

3. Learned Counsel for the Applicant argued that the Applicants had applied for the post of Head of the Department in 'Travel and Tourism' in Government Polytechnics in Maharashtra Polytechnics Teachers Service, Group 'A', pursuant to the advertisement dated 1.10.2013 issued by the Respondent No.1 viz. the Maharashtra Public Service Commission. A total of 3 posts of Head of the Department, Travel & Tourism included two open and one reserved for S.C. category were advertised. One open post was horizontally reserved for Woman. Learned Counsel for the Applicants stated that the Educational Qualification and experience for the post is given in paragraph no. 4.3 of the aforesaid advertisement. Bachelor's and Master's degree in the appropriate branch of Engineering/Technology with first class in either at Bachelor's or Master's level with 10 years of experience is required. If a candidate has first class at Bachelor's or Master's level with Ph.D., the experience required is five years. Learned Counsel for the Applicant argued that by G.R. dated 6.5.2013, the State Government has recognised equivalence of various degrees. Bachelor's Degree in Travel and Tourism is recognised as equivalent to Bachelor's degree in Hospitality Management, Hotel Management and Catering Technology. For Master's level, Master degree in Travel & Tourism, Hospitality Management, Food and Craft or Post Graduate Diploma, of at least 2 years

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duration in above subjects is recognised as equivalent. Learned Counsel for the Applicants argued that no institute in the State awards degrees/diplomas recognised as equivalent as above, by the State Government. As a result, despite repeated advertisement, the Respondent No.1 is not able to fill up the posts in the discipline of Travel and Tourism. The Applicants have Master's degree in Tourism Administration. The Applicant No.2 has a Ph.D. in Tourism Administration. Both the Applicants were selected as Lecturers in Travel and Tourism in Maharashtra State Institute of Hotel Management and Catering Technology in 2002 by direct recruitment on the basis of Master's degree in Tourism Administration. To say that they do not have requisite qualification for the post of Head of the Department is incorrect.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicants do not possess any Travel or Tourism related degree at Bachelor's level. Both the Applicants have Science degree of B.Sc. at Degree Level. At the Master's Level also, they do not have Master's degree in Travel and Tourism or Hospitality Management or Hotel Management and Catering Technology. Learned P.O. stated that the Master's degree of Tourism Administration is not recognised as equivalent to Master's degree in Travel & Tourism. The Applicants are not eligible to be considered for the post of Head of the Department as per the Principal, Head of Department, Lecturer, and Workshop

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Superintendent in Government Polytechnics and Equivalent Institutes (Recruitment) Rules, 2012. Learned P.O. argued that there is no merit in the O.A. and it may be dismissed.

5. We find that the Recruitment Rules of 2012 notified on 10.9.2012, for the Government Polytechnics are also applicable to 'Equivalent Institutes'. The subject of 'Travel & Tourism' is obviously not taught in Polytechnics and is taught in Equivalent Institutes. Reference to qualification in the related branch of Engineering or Technology has to be treated as qualification in the field of Travel and Tourism. The State Government has issued a Government Resolution dated 6.5.2013 which deals with the issue of equivalence of Bachelor's and Master Degrees of various subjects. Subject of Travel and Tourism is at Sr.No.32. It is seen that the Respondent No.1 has issued an advertisement dated 9.10.2013 for filling up posts of Head of Department in Government Polytechnics and Equivalent Institutions. 3 posts of Head of Department in Travel and Tourism were also advertised. Rule 4 of the 2012 rules was reproduced in para 4.3 of the advertisement regarding educational qualifications and experience for the post of Head of Department. For the subject of Travel and Tourism, both the Bachelor's degree and Master's degree in Travel & Tourism are required. Both the Applicants donot possess any Travel & Tourism related degree at Bachelor's level. Their only claim to be considered for the post of Head of Department is that they were selected as Lecturer on the

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basis of their Master's degree in Tourism Administration, so the same may be treated as equivalent to Master's degree in Travel & Tourism and the Bachelor's degree in Travel & Tourism may not be insisted upon. As per 2012 rules, for all posts including Lecturers and Head of Department, educational qualifications prescribed by the All India Council of Technical Education (AICTE) are applicable as per the Recruitment Rules. Evidently, the educational qualification now prescribed by AICTE require Bachelor's and Master's degree in the relevant subject. This is stated in G.R. dated 6.5.2013 as follows:-

“ अखिल भारतीय तंत्र शिक्षण परिषदेने सदर पदांवर नियुक्तीसाठी शैक्षणिक अर्हता निश्चित करताना संबंधित अभियांत्रिकी शाखेतील पदवी / पदव्युत्तर पदवी अथवा समकक्ष अर्हता असे नमूद केले असून Ph.D. या अर्हतेची समकक्ष निर्धारित करण्याची कार्यपद्धती ही संदर्भ-9 मधील अधिसूचनेत नमूद केली आहे.”

संदर्भ-9 is notification of the AICTE dated 5.3.2010. This notification has not been filed by the parties. However, the Applicants have not denied the contention of the Respondent No.2 & 3 in their affidavit in reply dated 29.4.2014 that the qualifications for the posts, including Head of Department, are as prescribed by AICTE and Government has issued G.R. dated 6.5.2013 accordingly. In the affidavit in rejoinder, the Applicant No.2 has stated that Statutory Recruitment Rules notified on 10.9.2012 cannot be amended by G.R. dated 6.5.2013. We find that this contention of the Applicants is totally misconceived. The Recruitment Rules provide that educational qualifications for various posts would be as prescribed by AICTE. The G.R. dated 6.5.2013 merely

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reiterates the qualifications prescribed by AICTE by notification dated 5.3.2010. The contention of the Applicants that they were selected on the post of Lecturer in Travel & Tourism and the basis of their Master's degree in Travel Administration, so they should be held eligible for the post of Head of Department in Travel & Tourism cannot be accepted. As per the Recruitment Rules as revised in 2012, the requirement for the posts of Head of Department is Bachelor's and Master's degree in Travel & Tourism, and if the Applicants do not have both the degree, they are clearly ineligible for appointment to the post of Head of Department. The Recruitment rules are revised taking into account the requirement of changing times. They cannot be frozen for all times to suit requirement of a few persons.

6. During the arguments, learned Counsel for the Applicant argued that no institution in Maharashtra Teaches Travel and Tourism or equivalent subjects at degree or Master's level. In the representation dated 10.8.2011, the Respondent No.2 has mentioned that degree in Travel & Tourism is not available anywhere in Maharashtra. However, nowhere it is mentioned that there are no courses available in equivalent courses viz. Degree in Hospitality Management or Degree in Hotel Management and catering Technology at Bachelor's Level and Degree in Hospitality Management and Degree in Food and Crafts at Master's Level. On the contrary in representation dated 25.10.2013, it is mentioned that Hotel Management is a small portion of

Travel & Tourism, implying thereby that such degrees in Hotel Management & Catering Technology are available in Maharashtra. One reason as to why the Respondent No.1 is not getting adequate response, could be that in the advertisement it is nowhere mentioned in so many words that Bachelor's/ and Master's degree in Hotel Management and Hospitality Management etc. will be treated as equivalent to the degree in Travel & Tourism. When the next advertisement is issued, this issue should be kept in mind by the Respondent No.1.

7. Learned P.O. has placed a letter dated 4.7.2014 from the Respondent No.1 to the Respondent No.2 informing that pursuant to advertisement dated 9.10.2013, no candidate was found suitable for the post of Head of Department in Travel and Tourism. That may not be quite germane now that we have held that the Applicants are not eligible for the said post.

8. Having regard to the aforesaid facts and circumstances of the case, this O.A. is dismissed with no order as to costs.

Sd/-

(R.B. MALIK)
(MEMBER) (J)

Sd/-

(RAJIV AGARWAL)
(VICE-CHAIRMAN)

Date : 22.01.2016

Place : Mumbai

Dictation taken by : SBA

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