



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 17308 OF 2017

SAJID KHAN

...APPELLANT(S)

VERSUS

L RAHMATHULLAH & ORS.

...RESPONDENT(S)

WITH

CIVIL APPEAL NO. 17310 OF 2017

CIVIL APPEAL NO. 17309 OF 2017

CIVIL APPEAL NO. 17311 OF 2017

J U D G M E N T

PAMIDIGHANTAM SRI NARASIMHA, J.

1. We are yet again seized with the common question in recruitment jurisprudence, whether the appellants' qualifications for the post in question meet the standard prescribed in the recruitment notification. This issue is not novel, and this Court has established clear guidelines for judicial review and restraint in determining equivalency. Following these principles, having carefully examined the decision of the employer (U.T. of Lakshadweep) to recognize the appellants' qualifications as

equivalent, we found it to be both justifiable and reasonable. Having considered the governing recruitment rules, submissions of the learned counsel and relevant precedents, we allow the appeal. Consequently, we set aside the High Court's decision, which had held that the appellants lacked equivalent qualifications and resulted in the termination of their appointments.

2. **Facts:** The brief facts leading to this appeal are as follows. The Union Territory of Lakshadweep, Department of Electricity had issued an advertisement for recruitment to the post of Junior Engineer (Electrical), a Group 'C' post. The required qualification was specified to be a Degree in Electrical Engineering from a recognized university, or a Diploma in Electrical Engineering from a recognized institution with two years of experience in any of the fields specified under the relevant recruitment rules.

3. The appellants are all Diploma-holders in Electrical and Electronics Engineering, whereas the respondents hold a Diploma in Electrical Engineering. The appellants and the respondents had participated in the selection process. Pursuant to the recruitment process, the authority published a select list on 03.09.2008 as per which the appellants were declared selected.

4. Aggrieved, the respondents, whose names did not figure in the Select List, filed Original Applications¹ before the Central Administrative Tribunal², contending that the appellants held a degree other than the ones specified in the advertisement, and as such, not qualified to be appointed to the post.

5. CAT accepted the said contention and by the common order dated 27.01.2010 allowed the original applications and set aside the appellant's selection. It relied on the text of the advertisement, and held that unstated qualifications cannot be read as a part of those which are specified.

6. Hence, the appellants filed writ petitions³ before the High Court challenging the CAT's decision. The Division Bench of the High Court, by the order impugned before us, dismissed the writ petitions and upheld the decision of the CAT. The High Court was of the view that (i) the advertisement was clear in its requirement, and that the appellants did not possess what was required; (ii) the relevant recruitment rules, namely the Lakshadweep Electricity Dept. (Group C and D Technical Posts) Recruitment Rules, 2002, did not provide for any equivalence between Diplomas in Electrical

¹ Original Application Nos. 91 of 2009, 554 of 2008, and 638 of 2008.

² Hereinafter referred to as 'CAT'.

³ Writ Petition Nos. 15398 of 2010, 6014 of 2010, 14891 of 2010 and OP (CAT) No.1305 of 2010.

Engineering and Diplomas in Electrical and Electronics Engineering; (iii) the Lakshadweep Administration had not issued any official instruction granting such equivalence; and (iv) candidates figuring in the ranked select-list have no indefeasible right to selection.

7. In this view of the matter, the High Court directed that the select list be recast by only including candidates who possessed the exact qualification as prescribed by the advertisement, and the eligible candidates from the fresh list shall replace the appellants. The appellants in Civil Appeal Nos. 17308/2017, 17310/2017, 17309/2017 and 17311/2017 are candidates whose name figured in the select list published by the recruiting authority. Respondent nos. 6-10 in C.A. No. 17308/2017, respondent nos. 6-10 in C.A. No. 17310/2017, respondent nos. 4-6 in C.A. No. 17309/2017 and respondent no. 4 in 17311/2017 are employees who were not selected in the process. These respondents were aggrieved by the appellants' appointment contending that the degrees held by the appellants were dissimilar to the required qualifications.

8. This Court issued notice on 09.01.2015 and the judgment of the High Court was stayed pending disposal of the Special Leave Petition. Subsequently, leave to appeal was granted on 12.10.2017

and we have continued this order until these civil appeals are heard. We have heard Mr. Shaji P. Chaly, Mr. Gaurav Agrawal, learned senior counsels, Mr. Rajeev Mishra, Mr. Saiby Jose Kidangoor, learned counsels appearing for the appellants and Mr. Amarjit Singh Bedi, learned counsel appearing for the respondents.

9. On behalf of the appellants, it was urged that the two degrees are similar in nature and no formal declaration of their equivalence was needed. The only difference between the two is that the Diploma held by the appellants included a diploma in an additional subject, i.e, electronics engineering. The syllabus for a Diploma in Electrical and Electronics Engineering is the same as the one for a Diploma in Electrical Engineering. Hence, it cannot be said that the appellants lacked the prescribed qualification.

10. It is also submitted that the recruiting authority was of the view that the appellants possessed the prescribed qualification and the diplomas of the appellants were treated at par with the prescribed qualifications after the Department had received a clarification from the Directorate of Technical Education, Thiruvananthapuram, Government of Kerala. While the employer took an informed decision after a technical assessment of the

concerned qualifications, the respondents without establishing how the appellants' diplomas fall foul of the required qualifications approached the CAT after the process was complete. They have submitted that the tribunal and the High Court have committed an error in both fact and law.

11. Mr. Amarjit Singh Bedi, learned counsel appearing on behalf of the respondents, fervently and persuasively submitted that equivalence between degrees is to be found in the rules or are to be specified by the recruiting authority. In the absence of the same, selections must and should be made strictly in light of the specified qualifications. Mr. Bedi submitted that the advertisement does not include a diploma in Electrical and Electronics Engineering, thereby barring the appellants' qualification.

12. He relied on the decision of this Court in ***Guru Nanak Dev University v. Sanjay Kumar Katwal***⁴, wherein it was stated that the qualifications have to be taken as exactly as specified, and that any equivalency cannot be implied or assumed. He would submit that deviating from the advertisement and accepting candidates with different qualifications amounts to a fraud on the public, as held in ***District Collector & Chairman, Vizianagaram v. M.***

⁴ (2009) 1 SCC 610.

Tripura Sundari Devi.⁵ Relying on **Ashok Kumar Sharma v. Chander Shekhar**,⁶ it was submitted that a public authority shall be strictly held to what it represented. He concluded his submission by arguing that if equivalent degrees are to be included, many candidates who did not participate in the process would have applied.

13. **Analysis:** We have given our anxious consideration to the arguments advanced. The relevant rules for the concerned post, namely, the Lakshadweep Electricity Department (Group ‘C’ and ‘D’ Technical Posts) Recruitment Rules, 2002 prescribe the requirements in its Schedule, indicating the name of the post, scale of pay, age, and the qualifications required. As against Column no. 8 of the schedule, the Rules prescribe the “educational and other qualifications for direct recruits” as follows:

THE SCHEDULE

[...]

1.	Name of the Post	Junior Engineer
[...]	[...]	[...]
8.	Educational and other qualifications required for direct recruits	1. Degree in Electrical Engineering of a recognized University OR <u>Diploma in Electrical Engineering</u> of a

⁵ (1990) 3 SCC 655.

⁶ (1997) 4 SCC 18.

		<i>recognized institution with 2 years Experience in any one of the following field.</i>
		<i>(1) Running and maintenance of DG Sets (2) Generation, Transmission & Distribution of Electricity (3) Internal electrification of building</i>
	[...]	
14.	[...]	[...]

14. Soon after these rules, which came into force in 2002, the administration sought a clarification from the Director, Technical Education, Kerala regarding the equivalence of the Diploma in Electrical and Electronics Engineering of the Board of Technical Education, Tamil Nadu with the Diploma in Electrical Engineering issued by the Board in Kerala. The relevant portion from the letter dated 11.02.2003 seeking clarification stated as follows:

“[...] The prospectus showing the syllabus and marks statements for all the semesters for the three year diploma in Electrical and Electronics Engineering issued by the Department of Technical Education, Govt of Tamil Nadu, obtained from one of the contestant are forwarded herewith as desired. It is requested to kindly clarify whether the three year Diploma in Electrical and Electronics Engineering conducted by the Department of Technical Education, Govt of Tamil Nadu can be considered equivalent to the qualification of three year diploma in Electrical Engineering conducted by the Department of Technical Education, Govt of Kerala so as to adjudge the suitability of the candidature of certain contestants. [...]”

15. The Department of Technical Education, Govt of Kerala issued a response to the said clarification on 26.02.2003 stating that both the qualifications are treated to be equivalent in the State of Kerala. The relevant portion of this clarification is reproduced as follows:

“[...] I am to inform you that the Diploma Certificate issued by the Board of Technical Education, Tamil Nadu is recognized by the Government of Kerala in the respective branches as per G.O. (MS)-526/Public Services Department dt. 17.7.1965. [...]”

16. Hence, in the year 2003 itself, the Lakshadweep administration had sought a clarification from another state government's department of education about the equivalence which is the basis of the dispute before us. This position continued without any dispute. On 03.08.2006, the administration issued an advertisement for the post of Junior Engineer (Electrical). The stipulation of qualifications in the advertisement has to be read in this context, and the relevant portion of the advertisement is reproduced as follows:

“[...]”

F. No. 36/1/2006-Estt/Ele(1)

Dated 03.08.2006

NOTICE

Applications are invited for the appointment to the post of the Junior Engineer (Electrical) in the scale of pay of Rs. 5000-150-8000 under the Lakshadweep Electricity Department from the qualified local candidates from Lakshadweep Island.

Qualifications required as per the existing recruitment Rules for the appointment to the above said post are given below.

<i>i.</i>	<i>No. of post</i>	<i>2 (Two)</i>
<i>[...]</i>	<i>[...]</i>	<i>[...]</i>
<i>iii.</i>	<i>Educational Qualification</i>	<i>Degree in Electrical Engineering of a recognized University OR Diploma in Electrical Engineering of a recognized institution with 2 years experience in any one of the following field.</i> <i>(1) Running and maintenance of Diesel Generating Sets</i> <i>(2) Generation, Transmission & Distribution of Electricity</i> <i>(3) Internal electrification of building.</i>

[...]"

17. Given that the recruiting authority had sought a clarification on whether a Diploma in Electrical and Electronics Engineering is equivalent to a Diploma in Electrical Engineering and accepted a clarification to the effect, we do not see any reason in denying such an equivalence for the purposes of the advertisement. Even the respondents in filing the OA, did not lay any foundation about why such equivalence should be denied. Pertinently, the administration had taken a categorical stand before CAT and the High Court that the two degrees are considered equivalent for the purposes of recruitment to the said post. Both CAT and the High Court have ignored the fact that the recruiting authority had attempted to

assess similarities between the two qualifications before issuing the advertisement.

18. In circumstances where the appointing authority has not objected to the qualifications of the appellants and there is no apparent or glaring difference in the qualifications, we see no reason for courts to interfere and set-aside the appointments made after due consideration. It is the appointing authority which has to take the decision on whether the candidate possesses what is required by the post in cases of disputed equivalence. This Court has stated the same in categorical terms in its decision **Anand Yadav v. State of U.P.**⁷:

“32. We may also notice another important aspect i.e. the employer ultimately being the best judge of who should be appointed. The choice was of Respondent 2 who sought the assistance of an expert committee in view of the representation of some of the appellants. The eminence of the expert committee is apparent from its composition. That committee, after examination, opined in favour of the stand taken by the appellants, and Respondent 2 as employer decided to concur with the same and accepted the committee's opinion. It is really not for the appellants or the contesting respondent to contend how and in what manner a degree should be obtained, which would make them eligible for appointment by Respondent 2.”

(emphasis supplied)

⁷ (2021) 12 SCC 390.

19. The recruiting authority has scrutinised the qualifications before deciding that they satisfy what is enumerated in the advertisement. It is not the case of the respondents that the authority in the present case has not applied its mind in scrutinising the appellants' diplomas. In **Mukul Kumar Tyagi v. State of U.P.**,⁸ this Court had an occasion to consider the approach to be adopted by the recruiting agency/employer while considering the issue of equivalence of qualifications and directed as under:

“59. The equivalence of qualification as claimed by a candidate is matter of scrutiny by the recruiting agency/employer. It is the recruiting agency which has to be satisfied as to whether the claim of equivalence of qualification by a candidate is sustainable or not. The purpose and object of qualification is fixed by employer to suit or fulfil the objective of recruiting the best candidates for the job. It is the recruiting agency who is under obligation to scrutinise the qualifications of a candidate as to whether a candidate is eligible and entitled to participate in the selection. More so when the advertisement clearly contemplates that certificate concerning the qualification shall be scrutinised, it was the duty and obligation of the recruiting agency to scrutinise the qualification to find out the eligibility of the candidates. The self-certification or self-declaration by a candidate that his computer qualification is equivalent to CCC has neither been envisaged in the advertisement nor can be said to be fulfilling the eligibility condition.”

(emphasis supplied)

⁸ (2020) 4 SCC 86.

20. Similarly, in **Maharashtra Public Service Commission v. Sandeep Shriram Warade**⁹ it was held that:

“9. The essential qualifications for appointment to a post are for the employer to decide. The employer may prescribe additional or desirable qualifications, including any grant of preference. It is the employer who is best suited to decide the requirements a candidate must possess according to the needs of the employer and the nature of work. The court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being on a par with the essential eligibility by an interpretive re-writing of the advertisement. Questions of equivalence will also fall outside the domain of judicial review. If the language of the advertisement and the rules are clear, the court cannot sit in judgment over the same. If there is an ambiguity in the advertisement or it is contrary to any rules or law the matter has to go back to the appointing authority after appropriate orders, to proceed in accordance with law. In no case can the court, in the garb of judicial review, sit in the chair of the appointing authority to decide what is best for the employer and interpret the conditions of the advertisement contrary to the plain language of the same.”

21. Though there a number of decisions on this very principle,¹⁰ we will conclude with a recent decision of this Court in **Union of India v Uzair Imran**,¹¹ emphasizing the restraint a court must exercise while determining equivalence between qualifications. The relevant portion is as under:

⁹ (2019) 6 SCC 362.

¹⁰ **Mohd Shujat Ali v. Union of India**, (1975) 3 SCC 76; **Dr. B.L. Asawa v. State of Rajasthan**, 1982 (2) SCC 55; **Zahoor Ahmad Rather v. Sheikh Imtiyaz Ahmad**, (2019) 2 SCC 404.

¹¹ 2023 SCC OnLine SC 1308.

“14. Normally, it is not the function of the court to determine equivalence of two qualifications and/or to scrutinise a particular certificate and say, on the basis of its appreciation thereof, that the holder thereof satisfies the eligibility criteria and, thus, is qualified for appointment. It is entirely the prerogative of the employer, after applications are received from interested candidates or names of registered candidates are sponsored by the Employment Exchanges for public employment, to decide whether any such candidate intending to participate in the selection process is eligible in terms of the statutorily prescribed rules for appointment and also as to whether he ought to be allowed to enter the zone of consideration, i.e., to participate in the selection process. It is only when evidence of a sterling quality is produced before the court which, without much argument or deep scrutiny, tilts the balance in favour of one party that the court could decide either way based on acceptance of such evidence.”

(emphasis supplied)

22. The burden to show that the recruiting authority accepted the qualifications of the appellants illegally or arbitrarily was on the respondents who had approached the CAT by filing OAs. There is nothing on record to show that they had adduced any convincing material evidence to prove that the qualifications prescribed are very different from the qualifications possessed by the appellants. On the other hand, the employer has indicated the efforts made by it in satisfying that the qualifications are equivalent and that Diploma in Electrical and Electronics Engineering is the same as the qualification prescribed in the advertisement. The entire case of the respondents is based on the difference in nomenclatures of

the two diplomas which stops there and has nothing to do with the core substance of the courses, including teaching, duration, curriculum or the pedagogy. The Court has held that conditions of recruitment such as required qualifications for a post, have to be viewed reasonably.¹²

23. Even if some ground exists for the High Court to exercise judicial review, the standard that the High Court would adopt, as indicated in ***Uma Shankar Sharma v. Union of India***,¹³ would be to see that, “the terms and conditions of service are [intended to be] construed reasonably, and too technical a view can defeat the essential spirit and intent embodied in them.” In light of the law re-iterated above and considering the fact that the employer has not objected to the appellants’ diplomas, it was not appropriate for the High Court to take a technical view of the matter and set aside the appointments.

24. In this view of the matter the decisions of the CAT and that of the High Court are not sustainable in law. Accordingly, we allow the present appeals by the appointed candidates and set aside the impugned judgment and order dated 20.11.2014 passed by the

¹² ***Punjab University v. Narinder Kumar***, (1999) 9 SCC 8.

¹³ (1980) 3 SCC 202.

High Court in Writ Petition Nos. 15398 of 2010, 6014 of 2010,
14891 of 2010 and OP (CAT) No.1305 of 2010.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[MANOJ MISRA]

**NEW DELHI;
FEBRUARY 20, 2025.**