

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

O.A. No.2338/2015

Reserved on: 13.07.2016

Pronounced on:22.09.2016

**Hon'ble Mr. Sudhir Kumar Member (A)**  
**Hon'ble Mr. Raj Vir Sharma, Member (J)**

Kumar Vishal, Group 'B' Aged 33 years,

S/o Sh. Om Prakash

R/o Devsar, District Bhiwani,

Haryana-127025.

...Applicant.

(By Advocate:Shri Ashish Nischal)

Versus

Navodaya Vidyalaya Samiti,

Through its Chairman,

B-15, Institutional Area, Sector-62,

District Gautambudh Nagar,

Uttar Pradesh-201309.

...Respondent.

(By Advocate: Shri S.Rajappa)

**ORDER**

**Per Sudhir Kumar, Member (A):**

The applicant approached this Tribunal because he is aggrieved by the impugned Marks List for selection to the post of Post Graduate Teacher (PGT, in short), (Biology), issued after his having cleared written test and the interview conducted by the respondent-Navodaya Vidyalaya Samiti in 2014.

(2)

2. The applicant is in possession of degrees in Bachelor of Education (B.Ed. in short) and Master in Science (M.Sc. in short) (Food Technology) from a recognized University. In November 2014, the respondents had issued an Advertisement for filling up the posts of PGTs and TGTs under various categories through Annexure A-2. The applicant applied for the post of PGT (Biology) under Un-reserved category, for which 19 posts were earmarked, while 9 posts were meant for O.B.C. category, and 13 posts for S.C./S.T. categories.

3. As per the Advertisement, the essential qualifications for the posts of PGT (Biology) were as follows:

“(a) Two years integrated Post Graduate M.Sc course from Regional College of Education of NCERT in the concerned subject with at least 50% marks in aggregate.

Or

Masters Degree from a recognized university with with at least 50% marks in aggregate in the following subjects:

(x) PGT (Biology) Botany/Zoology/Life Sciences/  
Bio Science/Genetics/Micro  
Biology/ Bio Technology/  
Molecuar Bio/Plant Physiology  
Provided that applicant had  
Studied Botany and Zoology  
at Graduation level.

(b) B.Ed or equivalent qualification from a recognized University.

(c) Proficiency in Teaching in Hindi and English languages.”

(3)

4. The applicant has submitted that in both his degrees in B.Ed and M.Sc (Food Technology), he had passed with more than 50% marks in aggregate, from a recognized University (Annexure A-3). He was eligible for appearing at the advertised examination, took the examination, and cleared the same by securing 115 marks. Thereafter, he appeared for the interview and secured 24 marks, and thus he had secured total 139 marks. However, on 12.06.2015, the respondents issued the impugned Marks List for PGT (Biology), in which the applicant was declared to be "Not Eligible". Upon enquiry, he was told that since he was not fulfilling the essential qualification of possessing an M.Sc P.G. degree in one of the mentioned disciplines, hence he was not eligible for appointment against the said post.

5. The applicant has submitted that the issue in hand is no more *res integra*, as a Division Bench of the Punjab and Haryana High Court has, while disposing off 25 Writ Petitions by a common judgment dated 04.12.2012, has held that the P.G. degree of M.Sc. (Life Sciences) is equivalent to the course of M.Sc. Zoology/Botany/Bio Science/Bio Chemistry etc., and, therefore, even if the applicant has done any one of the 16 M.Sc. courses, that would be treated as equivalent to an M.Sc. in Life Sciences. The applicant has submitted that since he is possessing the

(4)

degree of M.Sc. (Food Technology), which would come under M.Sc. (Life Sciences), therefore, he fulfils the essential qualification for appointment as PGT (Biology), and the respondent was wrong in rejecting his candidature.

6. He has taken only two grounds, firstly that he had developed a legitimate expectation to be appointed as PGT (Biology), in view of the judgment of the Hon'ble Punjab and Haryana High Court, and secondly, that he had obtained 139 marks, while the last person to be short-listed had obtained only 117 marks, and hence he was quite high up in the merit. In the result, the applicant had prayed for the following reliefs, and the interim relief praying for one post of PGT (Biology) to be kept vacant till the outcome of the OA:

- "a) Quash and set aside the Impugned Marks List (written & interview), qua the applicant, declaring the applicant as 'Note Eligible'.
- b) directed the respondent Samiti to issue the offer of appointment letter to the applicant against the post of Post Graduate Teacher (Biology).
- c) pass any other order(s) which this Hon'ble Tribunal deems fit."

7. While issuing notice on 03.07.2015, the Bench had that day considered the applicant's prayer for interim relief, and had directed that any appointment made will be subject to the outcome of this OA.

(5)

8. The respondent filed their counter reply on 24.02.2015 describing the whole process of recruitment undertaken by them. It was submitted that the Selection Committee having seen the applicant's qualification, i.e., M.Sc. in Food Technology, had considered the applicant as "Not Eligible", due to the reason that he does not possess a Master's Degree in any of the relevant subjects concerned, as prescribed under the Recruitment Rules (RRs, in short) of the Respondent-Samiti for the posts of PGT (Biology). It was further submitted that under Point 11 of Para-5 (General Instructions to the Candidates) of the Notification published in the Employment News dated 25/31.01.2014 regarding the said vacancies, it was clearly mentioned that the qualification acquired by the candidates should be strictly in accordance with the prescribed RRs.

9. It was submitted that it had been further laid down that any candidates seeking claim of their equivalence of their qualification with that of the notified ones should furnish documentary evidence in support of their claim at the time of interview/selection, otherwise such cases will be rejected. It was further submitted that when the applicant was fully aware of this fact at the time of filling up of the online application form, his

(6)

claim for being appointed to the post of PGT (Biology) lacks merit, and therefore, the OA deserves to be dismissed.

10. The same submissions had been repeated in para-wise reply also, and it was submitted that in the Respondent-Samiti the PGT (Biology) has to teach the subject of Biology to the students of Class XI and XII as per the CBSE Syllabus, and the applicant and others, who possessed degrees in M.Sc. (Food Technology), were not found suitable, as the essential qualification as prescribed under the RRs had not been satisfied. It was, therefore, prayed that since the applicant only possesses Master's Degree in Food Technology, which is not the essential qualification as prescribed under the RRs concerned, the applicant's candidature was rightly declared ineligible, and it was prayed that the OA be dismissed.

11. Heard. During the course of arguments, both the learned counsel argued on the line of their pleadings available on record. Learned counsel for the applicant took us through the judgment of the Hon'ble Punjab & Haryana High Court in **Babli vs. State of Haryana & Others** cited by him. In that judgment, in Paras 6 to 11, it had been observed as follows:

"6. It is pointed out at the outset that there is no specific discipline of Life Science i.e. Life Science is not taught as a subject. The petitioners have placed on record the communications received from the State Universities in the State of Haryana itself which disclose that Life Science is a

(7)

CWP No.13125 of 2012 [13] Faculty and there are various courses being run by Faculty of Life Science. The details of these particulars are as:-

(i) Communication dated 3.10.2012 given by Maharishi Dayanand University, Rohtak, to one Mr. Shiv Kumar, in response to information sought by him under the Right to Information Act, 2005 (for short, 'RTI Act'). It stipulates that various M.Sc. courses are run by the Faculty of Life Science of Maharishi Dayanand University. 16 such courses are specified therein which are as follows:-

"a) The following M.Sc. Courses are being run by the Faculty of life Sciences:-

1. M.Sc. (Biochemistry)
2. M.Sc. (Clinical Bio-chemistry)
3. M.Sc. (Bio-Technology)
4. M.Sc. (Agricultural Bio-Technology)
5. M.Sc. (Bio-Informatics)
6. M.Sc. (Medical Bio-Technology)
7. M.Sc. (Botany)
8. M.Sc. (Environmental Sciences)
9. M.Sc. (Environmental Bio-Technology)
10. M.Sc. (Food Technology)
11. M.Sc. (Genetics)
12. M.Sc. (Forensic Sciences)
13. M.Sc. (Microbiology)
14. M.Sc. (Microbial Bio-Technology)
15. M.Sc. (Zoology)
16. M.Sc. (Genomics)"

(ii) Communication dated 10.10.2012 of Guru Jambheshwar University of Science and Technology, Hisar, is again information supplied under the RTI Act. In this communication, following information is given:-

"..... The point-wise reply to the information sought by the applicant is given as under:-

1. That there are no Bio-Sciences/Life Sciences streams in GJUS&T, Hisar and no M.Sc. courses in Bio- Sciences/Life Sciences are offered as such. However, M.Sc. in Food Technology and M.Sc. in Bio- Technology pertaining to Bio-Sciences stream fall under the Faculty of Environmental and Bio Sciences & Technology.

CWP No.13125 of 2012 [14]

(8)

2. M.Sc. (Environmental Science) subject fall under the Faculty of Environmental and Bio Sciences & Technology of GJUS&T, Hisar.

3. B.Sc/B.Sc. (Hons) or its equivalent with at least 50% marks in aggregate.

4. The university does not impart instructions in the following courses:-

- i) M.Sc. Bio Science
- ii) M.Sc. Life Science
- iii) M.Sc. Biology

No group of the above subjects or stream of these M.Sc. courses is available in the university. However, contents of Bio Sciences, Life Sciences and Biology form significant proportion in M.Sc. courses of Environmental Science, Food Technology and Bio Technology."

This communication clearly states that there is no specific course in Bio Sciences/ Life Sciences streams, however, M.Sc. in Food Technology and M.Sc. in Bio-Technology pertaining to Bio Sciences fall under the Faculty of Environmental and Bio Sciences & Technology. It is also specifically mentioned that there is no course known as M.Sc. Life Science.

(iii) Communication dated 11.10.2012 of Chaudhary Devi Lal University, Sirsa, giving the information under the RTI Act, also states that M.Sc. courses which fall under Faculty of Life Science and are taught by the said University, are Biotechnology; Energy and Environmental Sciences; and Food Science and Technology. It is further mentioned that course of M.Sc. Environmental Science falls under the Faculty of Life Science.

(iv) Kurukshetra University, Kurukshetra, has also given information under the RTI Act vide communication dated 22.10.2012, specifying following courses that fall under Faculty of Life Science in this University:-

"Point No.(a) The following M.Sc. courses fall under the Faculty of Life Sciences in K.U.K.

CWP No.13125 of 2012 [15] M.Sc. (Bio-chemistry), M.Sc. (Bio-informatics), M.Sc. (Bio0technology), M.Sc. (Botany), M.Sc. in Food & Nutrition, M.Sc. (Human Development), M.Sc. (Clothing and Textiles), M.Sc. (Zoology), M.Sc. (Forensic Science), M.Sc. (Environmental Science) and M.Sc. (Microbiology).

There is no Faculty of Bio-Sciences in this university.

Point No.(b) M.Sc. Environmental Science course falls under the Faculty of Life Sciences."

(9)

7. It follows from the above that there is no specific course known as "Life Science". Infact, in all the four universities run by the State of Haryana itself, Life Science is a Faculty and these universities are running various M.Sc. courses under the aforesaid Faculty of Life Science. It is also clear from the above that it is Maharishi Dayanand University, Rohtak, which is running maximum M.Sc. courses under Life Science as it has specified 16 such courses. Therefore, it is clearly inferred that any candidate who has done any such M.Sc. course, specified in the said list of 16 courses, as extracted above, would qualify M.Sc. Life Science.

8. Mr. B.S. Rana, Additional Advocate General, Haryana, has submitted that the above mentioned qualifications/ subjects have been included in the Rules after taking into consideration the qualification prescribed by Kendriya Vidyalaya Samiti and erstwhile Haryana State Education Lecturer School Cadre (Group C) Service Rules, 1998. It is also CWP No.13125 of 2012 [16] mentioned that in addition, there was consultation with academicians/ educationist working in the department. To ensure optimum level, condition of having Botany and Zoology at Graduation level has been introduced, which did not exist in the previous rules. It is also stated that no qualification/ subjects have been omitted from the old rules, instead new subject of Molecular Biology has been added. The qualifications, in every subject having relation with the subject that has been considered by the subject experts for appointment to the post of PGT, have been laid down by a conscious decision and not mentioning the word 'equivalent' is also a conscious decision, as the syllabus to be taught at 10+2 level is the basic consideration for prescribing the qualifications for the post of PGT in each subject.

9. Learned counsel may be right in his submission. There is no denial of the fact that it is the employer who has to prescribe the qualifications which are required for a particular post. Again that is the job of the experts and courses are not to be interfered therewith. However, this Court is not indulging in any such exercise. "Life Science" is itself stipulated in the aforesaid Rule as the qualification which would make a candidate eligible. Therefore, the only question which needs determination is as to which course would come within the expression "Life Science" as that is specifically stipulated and CWP No.13125 of 2012 [17] included in the eligibility qualifications. It is here that we have pointed out the communications from the four universities of the State of Haryana which have stated in no uncertain terms that all the aforesaid courses would be covered by Life Science.

10. We repeatedly asked Mr. B.S. Rana, Additional Advocate General, Haryana, as to whether there is any specific course

(10)

of Life Science as it was his contention that these four universities may not be teaching the course of Life Science but it may be that this course is specifically taught by some other universities, however, he was unable to give any reply to the same. In the absence of any other reply coming forward and having regard to the courses explained by the four universities of the State of Haryana, we are left with no option but to hold that the candidates who have done any of the aforesaid 16 M.Sc. courses, would satisfy the eligibility condition by covering his/her case as M.Sc. Life Science. By holding so, we are not going into the issue as to whether it is equivalent to the other courses i.e. M.Sc. Zoology/ Botany/ Bio Science/ Bio Chemistry etc. That would have been the case if the discipline of Life Science had not been mentioned and this Court had undertaken the exercise as to whether Life Science is equivalent to the other courses. It is stated at the cost of repetition that M.Sc. Life Science would include as one of the qualifications under the CWP No.13125 of 2012 [18] Rules itself. As a result of this, the petitioners, wherein they have done one or the other M.Sc. course of the aforesaid 16 M.Sc. courses, would be treated as eligible for consideration to the post of PGT Biology.

11. In so far as, argument of Mr. B.S. Rana, Additional Advocate General, Haryana, that, particular degree possessed by the candidate should have relevance to the syllabus which is taught at 10+2 level, is concerned, again it is not for this Court to go into this issue. Once Life Science is included in the eligibility conditions and a candidate is able to demonstrate that he fulfills the conditions, a candidate becomes eligible to be considered for the aforesaid post. It would be a matter for the Selection Committee while interviewing such candidates to decide as to whether they are suitable for the post or not and needs to be selected therefor.

12. We are fortified in our aforesaid conclusion by the orders passed by the Supreme Court dated 2.9.2002 passed in SLP(C) 1716 of 2002 in the case titled "Inder Sain vs. State of Haryana & others".

(Emphasis supplied)

12. Here, in the instant case, it is not the case of the applicant possessing P.G. degree of M.Sc. (Life Sciences). He is in possession of a P.G. degree of M.Sc. (Food Technology), which cannot in any manner be held to be equivalent to the M.Sc (Life

(11)

Sciences). Moreover, one of the essential conditions as prescribed in the "Employment News" Notification itself against the post of PGT (Biology) was that the applicant should have studied Botany and Zoology at the Graduation level. However, it is seen that the present applicant had passed only Bachelor of Education degree at the Graduation level, and had not passed Botany and Zoology as his subjects at the Graduation level. Therefore, neither on the count of equivalence of qualification, nor on the count of possession of the required essential qualifications, can the applicant claim to seek any reliefs from this Tribunal.

13. It may be noted by us that since the applicant had passed M.Sc. (Food Technology) in four semesters examination {copies of the four semesters' Mark-sheets having been annexed as Annexure A-3 (colly)}, from them it is clear that none of the subjects studied by him even at the time of M.Sc. level would enable to him to teach Botany and Zoology subjects, as part of the CBSE Biology syllabus for Class 11<sup>th</sup> and 12<sup>th</sup> students. The applicant's Result-cum-Detailed Marks Card of Second Semester Examination May, 2006, was as follows:

"Result-cum-Detailed Marks Card  
MASTER OF SCIENCE  
(FOOD TECHNOLOGY)  
Second Semester Examination May, 2006

(12)

Name KUMAR VISHAL  
 Father's Name Shri Om Prakash  
 Mother's Name Smt. Santra Devi

#### DETAILS OF MARKS

| Sl.No.                  | Subject with Paper Code                                | Marks Obtained | Maximum Marks | Minimum Marks |
|-------------------------|--|----------------|---------------|---------------|
| 1                       | FT 511<br>Industrial Microbiology                      | 41             | Theory 80     | 40            |
|                         |  | 15             | Sessional 20  |               |
| 2                       | FT 512<br>Human Nutrition                              | 47             | Theory 80     | 40            |
|                         |  | 14             | Sessional 20  |               |
| 3                       | FT 513<br>Unit Operations in Food Processing           | 47             | Theory 80     | 40            |
|                         |  | 15             | Sessional 20  |               |
| 4                       | FT 514<br>Technology of Fruits & Vegetables            | 46             | Theory 80     | 40            |
|                         |  | 12             | Sessional 20  |               |
| 5                       | FT 515<br>Lab-II (Plant Products)                      | 63             | Practical 100 | 40            |
|                         |  |                |               |               |
| 6                       | FT 516<br>Lab-III (Industrial Microbiology, Nutrition) | 60             | Practical 100 | 40            |
|                         |  |                |               |               |
| Grand Total (if passed) |  | 360            | 600           | 240           |

14. In so far as the subjects studied by the applicant is concerned, it may be reiterated that the Post Graduation degree of M.Sc. (Life Science) is totally different from the Post Graduation degree of M.Sc. (Food Technology), where he has studied the subjects only regarding Technology of Fruits & Vegetables and Plant Products, and their management, which cannot, in any way, qualify to be the subjects studied either coming within Zoology, or even Botany. Moreover, as noted herein he did not have Botany and Zoology as his subjects at the Graduation level, which is an essential element of the Recruitment Rules.

(13)

15. Therefore, we find no merit in the OA, and the same is dismissed, but there shall be no orders as to costs.

**(Raj Vir Sharma)**  
**Member (J)**

**(Sudhir Kumar)**  
**Member (A)**

/kdr/