

**Central Administrative Tribunal
Madras Bench**

OA/310/00898/2015 & MA/310/00866/2015

Dated 9th day of February Two Thousand Sixteen

P R E S E N T

**Hon'ble Mr.K.Elango, Member(J)
&
Hon'ble Mr.R.Ramanujam, Member(A)**

1. Satyachinnanaidu
2. Gireesh Kumar Botsa
3. Sudhakar Bommeda,
4. Eswararao Maradana
5. Bhanu Prasad Maradana .. Applicants

By Advocate M/s.A.Abdul Ajees

Vs.

1. Union of India, rep by
The Secretary,
M/o Railways, Railway Board,
Rail Bhavan, New Delhi 110001.
2. The Chairman,
Railway Recruitment Board,
No.5, Dr.P.V.Cherian Crescent Road,
Egmore, Chennai 600 008.
3. The General Manager,
Southern Railway,
Park Town, Chennai 600 003.
4. The General Manager
Integral Coach Factory,
Chennai 600038. .. Respondents

By Advocate Ms.Sunitha Kumari

ORDER
(Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

The applicants had applied for the post of Chemical Metallurgical Assistant (CMA) in response to the Centralised Employment Notice No.02/2014 dated 20.9.2014 issued by the Ministry of Railways – Railway Recruitment Board (RRB). They qualified in the written examination held on 21.12.2014 after which they were called for verification of certificates on 21.5.2015. The final results published on 19.6.2015 by Annexure A1 impugned notification, however, did not include the names of the applicants. From the list of rejected candidates at Annexure A6, the applicants came to know that their candidature was rejected on the ground of invalid educational qualification. The applicants hold a M.Sc. Degree with Organic Chemistry or Inorganic Chemistry as optional subjects from Adikavi Nannapa University, Rajamundry, Dr. B.R.Ambedkar University, Srikakulam, Osmania University, Hyderabad and Andhra University, Visakhapatnam. It is submitted that M.Sc. Degree in Organic Chemistry or Inorganic Chemistry is equivalent to M.Sc. in Chemistry. The Chairman, Railway Recruitment Board, Chennai, allegedly rejected the applicants' candidature on the wrong notion that they did not have the prescribed qualification. Hence, the applicants are before us challenging the

impugned final selection list dated 19.6.2015 at Annexure A1 and seeking a direction to the respondents to include their names in the selected list of candidates..

2. The applicants contend that the Universities located at Andhra Pradesh are awarding Degree of M.Sc. mentioning the specialised optional subject such as Organic Chemistry or Inorganic Chemistry and do not award the Degree as M.Sc. (Chemistry). It is submitted that the 2nd respondent has selected three candidates Yakaiah Erugu with Roll No.18140232001052 – Sl.No.16, (Annexure A8), Kishor Kumar Bathula with Roll No.18140234001805 – Sl.No.9 and G.Monika with Roll No.18140234001197 – Sl.No.15 although they have the same qualification, i.e. M.Sc. with Organic Chemistry and hence rejection of the applicants is arbitrary, illegal, violative of Article 14,16&21 of the Constitution of India and against the principles of natural justice. The certificate of Yakaiah Erugu is placed at Annexure A8.

3. The respondents have filed their reply contesting the relief prayed for by the applicants. It is submitted that the educational qualification notified for CMA was a Degree in Metallurgy/Chemical Engineering or M.Sc. Degree in Chemistry/Applied Chemistry from a recognised university. Based on their performance in the written examination, 39 candidates plus 10 more were called to appear for

document verification, in the month of May 2015. After document verification, a final panel of 23 selected candidates for Southern Railway and 15 for Integral Coach Factory was recommended on 17.6.2015. The applicants herein had also been called for the document verification based on their performance in the written examination. During the document verification, it was found that the applicants No.1,2,3&5 were in possession of M.Sc. in Organic Chemistry and applicant No.4 was in possession of M.Sc. in Inorganic Chemistry. As the applicants did not have M.Sc. Degree in Chemistry/Applied Chemistry, their candidature was rejected for not possessing the notified qualification. The qualification required for the post of CMA was specific and, therefore, equivalent degrees were not acceptable. The applicants had claimed to possess the qualification of M.Sc. in Chemistry while applying for the post online. Admission of the candidates to the written examination for the post notified was on the basis of the information furnished by them in the online application. It had been clarified in the Employment Notice at Annexure A2 that if it was found that any information furnished by the candidates in the application was false or incorrect or the candidate suppressed any relevant information or the candidate otherwise did not satisfy the eligibility criteria for the post, his/her candidature would be cancelled forthwith.

4. As for the allegation that one Yakaiah Erugu who had M.Sc. with Organic Chemistry had been selected, it is pointed out that the said candidate was in possession of M.Sc. degree in Chemistry and Organic Chemistry was his specialisation. This according to the respondents is not the same as M.Sc. in Organic Chemistry. Similarly the other 2 candidates namely Kishor Kumar Bathula and G.Monika were also in possession of the certificate in M.Sc. Chemistry. It is not correct to say that the Universities in Andhra Pradesh do not award M.Sc. Chemistry. Annexure A8 Degree issued by Kakatiya University in favour of the said Yakaiah Erugu shows that he was awarded M.Sc. in Chemistry with Organic Chemistry as specialisation. The respondents seek to support their contention that equivalent degrees cannot be accepted dehors the notification from certain observations made by the Hon'ble High Court of Madras in WP No.16564/2014 (Annexure R1) and the observations of the Hon'ble Supreme Court in Chandigarh administration Vs. Usha Kheterpal Waive and others (2011) 9 SCC 645.

5. Heard the learned counsel for the applicant and the respondents and perused the pleadings and material produced by the rival parties.

6. Learned counsel for the applicant argued that possession of a Masters Degree in any branch of Chemistry is the same as possession of

a Masters Degree in Chemistry. Different Universities have their own systems and practices in this regard. While some Universities may award the Degree as M.Sc. in Chemistry alongwith the mention of the specialised subjects, some others prefer to issue the degree as M.Sc. in the specialised subject itself. This does not mean that the candidate is in possession of a degree of M.Sc. in a subject other than Chemistry. However, following the objection raised by the respondents at the time of document verification, the candidates approached the Universities concerned who in turn have cancelled the previous degree certificates of the first, fourth and fifth applicants and issued a new original degree pass certificate of M.Sc. Chemistry with specialisation in Organic Chemistry/Inorganic Chemistry, in a manner that was acceptable to the RRB. The revised certificates have already been submitted to the respondents, copies of which have been annexed to MA/310/00866/2015 filed in this regard. However, the respondents dismissed the revised certificates as a subsequent development and continued to resist the claim on the ground that candidates were not in possession of such revised certificates on the date of document verification. As the applicants have now convincingly established that the qualification they

possess is M.Sc. in Chemistry, the rejection of their candidature was arbitrary, it is submitted.

7. Learned counsel for the respondents, however, argued that the applicants were not in possession of the certificate of the degree of M.Sc. Chemistry either on the date of application or on the date of document verification. They had claimed possession of requisite educational qualification in their online application which they were unable to support with the requisite document on the date of verification. The Notice for Employment had not allowed persons with equivalent qualification to apply and it had clearly been set out at Sl.No.1. of Important Instructions that the candidature of those who made false declarations would be rejected. Further, Sl.No.6.05 of the General Instructions regarding invalid applications/rejections included 'not possessing the prescribed qualification for the post on the date of submission of the application' as a ground for rejection. Learned counsel drew attention to the following observations of the Hon'ble High Court of Judicature at Madras in WP 16564/2014:-

"9. Even if it is presumed for the sake of discussion without accepting that the applicant/second respondent had equal qualification or subject matter was same, which he had undergone in his apprentice certificate, the applicant/second respondent cannot be given any benefit as the qualification prescribed in the notification does not specify any other equivalent

qualification. Permitting the petitioner on the basis of having equal qualification will strike at the root of the constitutional scheme as prescribed under Article 14 of the Constitution of India as similarly situated candidates having equal qualification on the basis of the notification had not chosen to make an application for consideration. Thus, the applicant/second respondent cannot be held as qualified for the post he had applied.

10. It is trite law that it is the prerogative of the employer to prescribe the minimum qualification for any post. The Courts and Tribunals should be circumspect in interpreting or interfering with the qualification prescribed unless the same is irrational, irrelevant and unconstitutional.

11. The Supreme Court in *Chandigarh Administration Vs. Usha Kheterpal Waie and others* (2011) 9 SCC 646 analysed various decisions rendered by the Supreme Court earlier and laid down a well settled principle of law in respect of prescription of minimum qualification for recruitment, which reads as under:-

"22. It is now well settled that it is for the rule-making authority or the appointing authority to prescribe the mode of selection and minimum qualification for any recruitment. The courts and tribunals can neither prescribe the qualifications nor entrench upon the power of the authority concerned so long as the qualifications prescribed by the employer is reasonably relevant and has a rational nexus with the functions and duties attached to the post and are not violative of any provision of the Constitution, statute and rules. (See *J.Ranga Swamy v. Govt. of A.P.* and *P.U. Joshi v. Accountant General*). In the absence of any rules,

under Article 309 or statute, the appellant had the power to appoint under its general power of administration and prescribe such eligibility criteria as it is considered to be necessary and reasonable. Therefore, it cannot be said that the prescription of Ph.D is unreasonable."

To buttress her argument regarding the date on which the candidate must fulfil the eligibility condition, she also referred to Judgments of the Hon'ble Apex Court in (2010) 5 SCC 798 *Jenany J.R. Vs. S.Rajeevan & Others* in CA No.4046/2010 dated 3.5.2010 and (2013) 11 SCC 58 *Rakesh Kumar Sharma Vs. State (NCT of Delhi) & Others* in CA No.6115/2013 with Nos.6117 & 6119-20/2013 *Santosh Kumar Meena Vs. State (NCT of Delhi) & Others* dated 29.7.2013. Acceptance of such revised certificates after the date of document verification would be discriminatory against similarly placed persons who were in possession of the same qualification as the applicants herein had chose not to apply in view of the fact that they did not fulfil the requisite eligibility criterion in terms of the educational qualification prescribed, it is argued.

8. We wanted to ascertain from the learned counsel for the parties if they had any information whether the Universities concerned in Andhra Pradesh conducted a post graduation course of M.Sc. in Chemistry as distinct from courses for M.Sc. in Organic Chemistry/Inorganic Chemistry etc. In response, the learned counsel for

the applicant produced certificates from Andhra University, Osmania University, Adikavi Nannaya University and Dr.B.R.Ambedkar University stating that the Universities did not offer any Master of Science Degree in Chemistry without any specialization in Organic/Inorganic/Analytical/Physical Chemistry etc.

9. We have carefully considered the arguments presented by the rival counsel, perused the documents as also the citations provided by the learned counsel for the respondents. The issue to be determined here is whether the applicants possessed the educational qualification required for the post of CMA as on the date of application and the date of the document verification. It is not disputed that the applicants, at the time of document verification submitted certificates which indicated that they had been awarded the degree of Master of Science in Organic Chemistry/Inorganic Chemistry as the case may be. As the notice for employment prescribed the educational qualification as M.Sc. Chemistry, it was legitimate for the respondents to raise a doubt whether the degree of Master of Science in Organic or Inorganic Chemistry is the same as M.Sc. in Chemistry. However, there is no evidence of the matter having been referred to any expert body either in house or outside the RRB to find the answer. Nor were the candidates asked to produce any evidence

to support their claim that they indeed fulfilled the eligibility in terms of the educational qualification prescribed. The respondents appear to have come to the conclusion on their own that M.Sc. in Organic or Inorganic Chemistry is a different qualification and even if it is an equivalent qualification, the question of equivalence could not be looked into in the absence of a provision for the same in the Employment Notice.

10. If Universities are conducting M.Sc. Degree Courses in Chemistry as well as separate M.Sc. courses in different branches of Chemistry along side and are awarding M.Sc. (Chemistry) and M.Sc. (Specialised branch of Chemistry), it could be reasonably presumed that the qualification of M.Sc. (Chemistry) prescribed for the post was a conscious decision on the part of the respondents and the decision to keep away the holders of M.Sc. in specialised disciplines was purposeful, rational and based on intelligent differentia bearing a nexus with the object sought to be achieved by such clarification. However, no such plea is made by the respondents. Nor is there any explanation of how they regard M.Sc. in any branch of Chemistry as not M.Sc. in Chemistry or how a person with M.Sc. in a specialised discipline of Chemistry would be unsuitable or unequal to the demands of the job of CMA. It is

important to appreciate that the situation changes completely if Universities no longer conduct M.Sc. (Chemistry) courses and run only courses in the specialised disciplines without any compromise on the level of knowledge expected to be acquired in other branches of the subject while requiring a more intense and advanced study of one of the branches. In such cases, the degree may be awarded in terms of the nomenclature of the course that the University has adopted.

11. For the award of any degree, the University is the sole authority. It is for the University concerned to decide the nomenclature of the degree keeping in view the syllabus/course content etc. No outsider such as an employer or a recruitment board can dispute it unless they have a reason to believe that the degree has been obtained by surreptitious means or issued with a malafide intent as a measure of favouritism etc. It is not possible to argue that a certificate of degree issued by a University whether original, revised or new-original is not adequate evidence of possession of such qualification by a candidate.

12. Admittedly, the applicants obtained from their respective Universities a certificate dated 26.3.2015 that they had qualified in Master of Science in Organic Chemistry/Inorganic Chemistry and that the Master of Science in Organic Chemistry/Inorganic Chemistry was equivalent to Master of Science in Chemistry. However, when this was

not found acceptable to the respondents, atleast three of the applicants surrendered their original degree certificates to the Universities concerned and obtained new certificates. The new certificates show their qualifications as M.Sc. Chemistry with specialisation in Organic or Inorganic Chemistry as the case may be. With the revision of the certificates in a format similar to the one issued in favour of some of the selected candidates like Yakaiah Erugu, it would appear that the issue is no longer one of equivalence but only the date on which they came to possess the requisite qualification.

13. It is legitimate for the respondents to look into whether the applicants possessed the qualification of M.Sc. Chemistry on the date of application and at the time of document verification. However, in a disputed case of this nature, it cannot be done routinely. It would require an application of mind to ensure that the rule or the prescription in the Employment Notice is not interpreted in a manner that defeats the very purpose of such prescription. It is not the respondents' case that the applicants had not successfully completed their M.Sc. course on the date of application and, therefore, had only acquired the requisite qualification thereafter. The revised certificates of the first, fourth and fifth applicants do indicate that they had qualified in 2008 or 2009 although the certificates admittedly came to be issued only after the date

of verification of the documents. This was inevitable in the facts and circumstances of the case as no such revised certificates would have been necessary in the first place had it not been for the objection raised by the respondents regarding the qualification possessed by the applicants. However, for this reason alone, it cannot be concluded that the applicants concerned acquired the qualification itself only after the date of application/document verification. These are not qualifications acquired in the year 2015 but are only the revised nomenclature of the qualification already possessed on the date of application and the date of document verification.

14. The citations referred to by the learned counsel for the respondents would be of relevance where an appointment is sought on the basis of an 'equivalent' qualification or where the requisite qualification is acquired after the cut off dates. However, it is seen in this case that although the applicants initially claimed equivalence, the term 'equivalence' appears to have been understood by the applicants loosely and in a general sense. The question of equivalence arises when the certificate of course completed or degree awarded is not the same as prescribed in an employment notification or is in a subject other than the subject notified. However, when a candidate possesses the very degree prescribed in the Recruitment Rules or Employment Notice but a dispute

arises on account of Universities' adopting their own nomenclature for the purpose of awarding the degree, it cannot be argued that the certificate produced by the candidate is of an 'equivalent' degree. Both Organic and Inorganic Chemistry are branches of Chemistry and to that extent arguably a degree in a branch of Chemistry is a degree in Chemistry only and not a degree in any other subject.

15. It is not possible for students to dictate to their respective Universities in what format they would give the degree certificates. What is important to note is that a degree of M.Sc. in Organic Chemistry or Inorganic Chemistry is the same as a degree in M.Sc. Chemistry, in the sense that it is not a degree such as Masters in Physics or Maths or any other subject. Nor is it a degree other than M.Sc. and, therefore, the question of equivalence is not relevant. If at all there was a doubt about whether the subject matter of M.Sc. of the applicants was Chemistry or not, the Universities have answered it in the affirmative. The respondents have produced no evidence to argue otherwise.

16. The mere fact that the applicants used the term 'equivalence' loosely and not in its legal sense cannot alter the facts of the case. It is neither fair nor in the interest of justice to hold the failure of an entry level applicant to a public service in a technical field to understand the legal nuance of a word used by him in a general sense against him if he is

otherwise a bonafide applicant who is qualified for the job. The issue is not whether such a candidate can argue his case in a legally sound manner but whether he possessed the requisite qualification.

17. It is not in the interest of the respondents either to deprive themselves of the services of meritorious candidates on such flimsy grounds. If it is the respondents' case that M.Sc. (Chemistry) is not the same as M.Sc. in its specialised branches and a person with M.Sc. (Chemistry) alone is suited for the post of CMA in terms of relevant knowledge, they ought to ponder over how persons with M.Sc. in specialised disciplines such as the applicants have performed better in the written examination and come out higher in the merit list than many of the M.Sc. (Chemistry) degree holders below who the respondents seek to favour with appointment letters at the expense of such persons placed higher in the merit list.

18. The fact that revised certificates have been issued by the Universities concerned for atleast three of the applicants and that all the Universities have clarified that they did not conduct any course of M.Sc. Chemistry without specialization in one of the branches clinches the issue for the applicants. The applicants have not acquired any new qualification after the date of application or documentary verification. The action taken by them in obtaining a revised certificates was only to

satisfy the respondents that they had indeed fulfilled the eligibility criteria as on the date of application and documentary verification. As the applicants have not acquired the requisite qualification after the date of application and date of document verification, the reliance placed by the learned counsel for the respondents on the observations of the Hon'ble Apex Court in the cases cited by her is out of place as these would not be applicable to the instant case.

19. We do not also agree that the observations of the Hon'ble High Court of Judicature at Madras in WP 16564/2014 would be of any applicability in the instant case. The Hon'ble High Court had made the relevant observations after taking note of the fact that

"the case of the Writ Petitioner before the Tribunal was that the required qualification under the notification was an apprenticeship in the trade of Fitter and not in the trade of Mechanic, Machine Tool Maintenance. The 3rd respondent herein is not the competent authority to grant equivalent certificate and also the notification does not prescribe for equal certificate. It was further contended that the qualification of the applicant/2nd respondent was not suited to the post of Technician Grade III/Diesel Mechanic/Mill Wright Fitter."

Unlike the said case, here the Universities are fully competent not only to issue equivalence certificate but also to revise the nomenclature of their degrees. Further, there is no such submission by the respondents that the applicants are not suited for the post of CMA. Their objection is only

regarding the format/wording of the degree certificate produced by the applicants. The facts of the case are thus distinguishable.

20. Employment Notices are taken out in terms of the relevant recruitment rules (RR). The qualification prescribed to meet the eligibility conditions in this case are presumably derived from the RRs. It is possible that the qualification of M.Sc. (Chemistry) came to be prescribed at a time when Universities were only conducting M.Sc. courses in Chemistry without any specialisation. Now that Universities are conducting specialised courses also and in some cases, specialised courses only, recruitment boards cannot be oblivious of this and insist on archaic and obsolete rules. They ought to move with time. If any branch of the subject is particularly suitable for the post advertised or if one or more branches considered unsuitable keeping in view the job description of the post, action should be taken to amend the rules accordingly so as to make the intent clear. In the absence of any specific action in this regard, rules cannot, but be interpreted dynamically and in keeping with times. In the event of a doubt, benefit of doubt must go to the candidates and not the employer or a recruitment board who fails or refuses to take cognisance of contemporary realities and act reasonably.

21. In the facts and circumstances of this case, the argument that acceptance of applicants' candidature would amount to discrimination

against persons who possessed similar certificates from these Universities and chose not to apply would also appear to be flawed. As it is clear from the revised certificate issued by the Universities that the applicants indeed came to possess the requisite qualification when they completed the course in 2008/2009, if similarly placed persons had ruled themselves out, out of a mistaken notion or otherwise, they had only themselves to blame. They ought to have known that they did possess the requisite qualification and the respondents could not deprive them of their lawful rights to compete. There would be any number of persons possessing the requisite qualification but choose not to apply for a job for their own reasons. Courts or Tribunals cannot reject the rightful claims of eligible persons for the sake of such non-contestants.

22. For the aforesaid reasons the applicants succeed. The respondents are directed to accept the revised certificates produced by the first, fourth and fifth applicants as adequate evidence of their possessing the requisite qualification as on the date of application and proceed with the selection process accordingly. These applicants shall be granted appointment based on their position in the merit list and subject to fulfilment of any other condition as prescribed in the relevant rules preceding such appointment. The respondents shall also consider the candidature of the second and third applicants on similar lines, if they

are able to support their claim with similar revised certificates from their Universities within a period of one month from the date of issue of this order.

23. The OA is ordered as above. No order as to costs.

| |
