



2026:DHC:5623-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 10 July 2026
Pronounced on: 15 July 2026

+ W.P.(C) 2818/2024

GOVT OF NCT OF DELHI AND ANR.Petitioners
Through: Mrs. Avnish Ahlawat, SC
GNCTD (Services) with Mr. Nitesh Kumar
Singh, Ms. Aliza Alam, Mr. Mohnish
Sehrawat, Advs.

versus

MANU AND ORS.Respondents
Through: Mrs. Kajal Chandra, Ms.
Hatneimawi, Mr. Suyash Swarup, Mr.
Ananyay Bhardwaj, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE VINOD KUMAR

JUDGMENT
15.07.2026

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C. HARI SHANKAR, J.

1. The issue in controversy in this writ petition cannot be said to be *res integra*. It involves the question of whether a candidate, who does not possess the prescribed qualifications for recruitment to a post, can be treated as eligible because she, or he, possesses a “higher” qualification.

2. As this is the limited issue which arises for consideration, no

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detailed allusion to facts is necessary, and a brief recital would suffice.

3. The Delhi Subordinate Services Selection Board¹ issued Advertisement Notice No. 04/17 dated 20 December 2017, inviting applications for appointment to the post of Domestic Science Teacher (TGT). The respondents applied against Post Code 92/17. They succeeded in the selection and offers of appointment were issued to them. Subsequently, however, these offers were revoked on 12 March 2020 on the ground that the respondents did not possess the prescribed qualifications as per the applicable Recruitment Rules². The essential and desirable educational qualifications prescribed for the post of Domestic Science Teacher under Post Code 92/17 read thus:

“Educational Qualification:-

Essential:- 1. *Bachelor's Degree in Domestic science/Home Science from a recognized university/institute.*

2. Bachelor's in Education with Domestic Science/Home Science as a teaching subject.

Desirable:- 1. Must have passed Hindi as a subject at Secondary Level.”

4. The respondents possess BA (Pass) degrees and hold Master's Degrees in Domestic Science/Home Science. The question for consideration is whether this would satisfy the requirement of a “Bachelor's degree in Domestic Science/Home Science from a recognised University/Institution”.

¹ “DSSSB”, hereinafter

² “RRs”, hereinafter



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5. The respondents' contention is, fundamentally, that a Master's Degree is a higher qualification than a Bachelor's degree and that, therefore, even if they do not possess a Bachelor's degree specifically in the discipline of Domestic Science/Home Science, they are nonetheless eligible to apply under the advertisement against Post Code 92/17.

6. Additionally, it is sought to be contended that, as Domestic Science/Home Science was a subject which was taught to the respondents in all three years of their BA (Pass) course, they can, on that basis, be treated as possessing a "Bachelor's degree" in Domestic Science/Home Science.

7. Aggrieved by the revocation of their offers of appointment, the respondents approached the Central Administrative Tribunal³ by way of OA 1005/2020.

8. By judgment dated 19 May 2023, the Tribunal has allowed the OA and has directed the GNCTD⁴ to treat the respondents as eligible for the post of Domestic Science Teacher (TGT) and offer them appointment if they satisfy other eligibility conditions and are suitable for the post.

9. In arriving at its decision, the Tribunal has placed reliance on

³ "the Tribunal", hereinafter

⁴ Government of National Capital Territory of Delhi



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the judgment of the Division Bench of this Court in *Srishti v. Govt. of NCT of Delhi*⁵.

10. Aggrieved thereby, the GNCTD and the DSSSB have approached this Court by means of the present writ petition.

11. We have heard Mr. Nitesh Kumar Singh, learned Counsel for the petitioners and Ms. Kajal Chandra, learned Counsel for the respondents at length.

12. Mr. Singh submits that neither of the contentions advanced by the respondents to profess their eligibility for recruitment as Domestic Science Teacher has substance. He submits that a Bachelor's Degree in Domestic Science cannot be equated with a BA (Pass) degree and that what is required is a degree in the discipline of Domestic Science/Home Science. A mere BA (Pass) degree in which Domestic Science/Home Science forms one of the subjects of study, even if in all the years of the course, cannot qualify as a Bachelor's degree in Domestic Science/Home Science.

13. Mr. Singh further submits that the possession of a higher qualification does not result *ipso facto* in satisfaction of the requirement of a Bachelor's Degree in Domestic Science/Home Science. He relies on para 25 of the judgment of the Supreme Court in *Zahoor Ahmed Rather v. Sheikh Imtiyaz Ahmad*⁶, which reads

⁵ 2017 SCC OnLine Del 8620

⁶ (2019) 2 SCC 404



thus:

“25. The decision in *Jyoti K.K. v. Kerala Public Service Commission*⁷ has been considered in a judgment of two learned Judges in *State of Punjab v. Anita*⁸. In that case, applications were invited for JBT/ETT qualified teachers. Under the rules, the prescribed qualification for a JBT teacher included *a Matric with a two years' course in JBT training and knowledge of Punjabi and Hindi of the Matriculation standard or its equivalent*. This Court held that none of the respondents held the prescribed qualification and an MA, MSc or MCom could not be treated as a “higher qualification”. Adverting to the decision in *Jyoti K.K.*, this Court noted that *Rule 10(a)(ii) in that case clearly stipulated that the possession of a higher qualification can presuppose the acquisition of a lower qualification prescribed for the post. In the absence of such a stipulation, it was held that such a hypothesis could not be deduced:*

“15. It was sought to be asserted on the basis of the aforesaid observations, that since the private respondents possess higher qualifications, then the qualification of JBT/ETT, they should be treated as having fulfilled the qualification stipulated for the posts of JBT/ETT Teachers. It is not possible for us to accept the aforesaid submission of the learned counsel for the private respondents, because the statutory rules which were taken into consideration by this Court while recording the aforesaid observations in *Jyoti K.K.*, permitted the aforesaid course. The statutory rule, in the decision relied on by the learned counsel for the private respondents, is extracted hereunder:

‘6. Rule 10(a)(ii) reads as follows:

10. (a)(ii) Notwithstanding anything contained in these Rules or in the Special Rules, the qualifications recognised by executive orders or Standing Orders of Government as equivalent to a qualification specified for a post in the Special Rules and such of those higher qualifications which presuppose the acquisition of the lower qualification prescribed for the post shall also be sufficient for the post.’

(emphasis supplied)

⁷ (2010) 15 SCC 596

⁸ (2015) 2 SCC 170



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A perusal of the Rule clearly reveals that the possession of higher qualification would presuppose the acquisition of the lower qualification prescribed for the posts. Insofar as the present controversy is concerned, there is no similar statutory provision authorising the appointment of persons with higher qualifications.”

14. He further relies on the judgment of a Division Bench of this Court in **GNCTD v. Seema Kumari**⁹.

15. Responding to the submission of Mr. Singh, Ms. Kajal Chandra submits that, except the Lady Irwin College in Delhi, of which she herself claims to be an alumna – and a distinguished one, if we may say so – no educational institution in India confers a Bachelor’s degree in Home Sciences/Domestic Sciences. It is only a Bachelor’s degree which is issued, without any specified specialization.

16. In any case, she submits that as holders of Master’s degrees in Domestic Science, the respondents could not very well be treated as ineligible for a post which require only a Bachelor’s degree. She submits that this issue is squarely covered by a judgment of the Division Bench of this Court in **GNCTD v. Monika Sharma**¹⁰, from which she cites paras 3 to 6, 20 and 21, which read thus :

“3. The controversy which emanates for consideration is whether Ms. Monika Sharma meets the eligibility or essential qualification of a degree/diploma in Training/Education. The eligibility criteria prescribed in Advertisement No. 2/2010 and as per the Recruitment Rules, reads:-

⁹ 2023 SCC OnLine Del 4987

¹⁰ 2016 SCC Online Del 3694



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“Essential Qualifications: for PGT (excluding Engineering Drawing/Music/Home Science):

1. Master's Degree (or its equivalent Oriental Degree in the case of PGT Sanskrit/Hind) in the subject concerned from any recognized University.
2. Degree/Diploma in Training/Education Qualifications mentioned at S. No. 2 above relaxable in case of candidates:
 - (i) having obtained Ph.D Degree in the subject concerned from a recognized University/Institution; or
 - (ii) having obtained First Division in Higher Secondary. Degree and Post Graduate Examination with the mandatory condition that the candidate will acquire the B.Ed./B.T. qualification within a period not exceeding three years from the date of his joining the service.”
3. Desirable: 3 years experience of teaching in a College/Higher Secondary School/High School in the subject concerned.”

4. As per the aforesaid, the essential qualifications were (i) a post-graduate degree in the subject concerned from a recognized university and (ii) a degree/diploma in training/education. Qualification No. (ii) was relaxable where the candidate had a Phd. Degree in the subject concerned from a recognized university/institution or had obtained a first division in the higher secondary, Graduation and Post Graduate examinations. In such cases, the candidates were required to obtain B.Ed. or B.T. qualification within a period of three years from the date of joining service.

5. The respondent has a degree of Bachelor of Elementary Education (B.EL.Ed.) from the University of Delhi. She also holds a Masters degree in Education (M.Ed.) and is Master of Arts in Sociology. She was selected, but denied appointment on the ground, that she did not have a B.Ed. or B.T. degree. The B.EL.Ed. degree was not considered equivalent to a B.Ed. or B.T.

6. The Tribunal in the impugned order has observed that the authorities had failed to examine the question of equivalence of B.EL.Ed., B.Ed & B.T. degrees, by comparing the subjects studied or syllabi. Reference was made to the judgment of the Supreme Court in *Jyoti K.K. v. Kerala Public Service Commission* and the Delhi High Court in WP(C) No. 1520/2012, *Government of NCT*



*of Delhi v. Sachin Gupta*¹¹. As the respondent had an M.Ed degree, she could not have been disqualified on the ground that she did not have a B.Ed. degree. The respondent had a higher qualification than what was prescribed. She was qualified and eligible for being appointed to the post of Post Graduate Teacher (Sociology).

20. The aforesaid factual position, and education qualifications of the respondent are accepted. We are satisfied that the Tribunal was justified in negating the stand of the petitioner and holding that the respondent Monika Sharma was eligible. She has secured rank No. 17 in the selection list after tier one and tier two examinations.

21. In *Jyoti K.K. v. Kerala Public Service Commission*, the Supreme Court observed that if a person had acquired higher qualifications, such qualifications would pre-suppose acquisition of the lower qualification. A degree holder would be eligible to apply for a post, where the minimum qualification prescribed was diploma holder. When the position was not clear and the rules did not per se disqualify holders of the higher qualifications, it would be appropriate to hold that those with the higher qualifications would be eligible. In *Chandrakala Trivedi v. State of Rajasthan*¹², the Supreme Court reversed the decision of the High Court observing that the expression 'equivalent' must be given a reasonable meaning. Usage of the expression 'equivalent' means that there are some degrees of flexibility or adjustment which do not lower the stated requirement. Equivalent does not mean exact. In this case, the candidate was declared ineligible for appointment as a teacher for primary and upper primary schools because she had not passed the Higher Secondary/Senior Secondary Examination, the basic qualification for the post in question. She was considered eligible as she had cleared higher examinations. Recently, the Supreme Court in CWP No. 13368/2015, *Parvaiz Ahmad Parry v. State of Jammu & Kashmir* decided on 6th November, 2015 has held that while the minimum qualification prescribed for the post of J&K Forest Service Range Officers Grade-I (Forest) was a B.Sc (Forestry) or an equivalent degree from any University recognized by the ICAR, a candidate with a higher qualification was equally eligible. Thus a B.Sc candidate with Forestry as a major subject and M.Sc. in Forestry was eligible. It was observed:-

“25. In our view, if a candidate has done B.Sc. in Forestry as one of the major subjects and has also done Masters in the Forestry, i.e., M.Sc. (Forestry) then in the absence of

¹¹ 2013 SCC OnLine Del 3045

¹² (2012) 3 SCC 129



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any clarification on such issue, the candidate possessing such higher qualification has to be held to possess the required qualification to apply for the post. In fact, acquiring higher qualification in the prescribed subject i.e. Forestry was sufficient to hold that the appellant had possessed the prescribed qualification. It was coupled with the fact that Forestry was one of the appellant's major subjects in graduation, due to which he was able to do his Masters in Forestry.”

17. Ms. Chandra further cites paras 10.2, 13, 14 and 15 of the judgment of the Supreme Court in *Parvaiz Ahmad Parry v. State of J & K*¹³.

Analysis

18. We have considered the submissions of learned counsel for both sides and addressed ourselves to the issues in controversy.

19. We may straightaway hold, at the outset, that the mere fact that the respondents may have studied Domestic Science/Home Science as one of the subjects in their BA (Pass) courses cannot suffice to equate their BA (Pass) degrees with a Bachelor's degree in Domestic Science/Home Science. We are sanguine that a Bachelor's degree in Domestic Science/Home Science is, in a sense, equivalent to an Honours Degree in that particular discipline.

20. Even if Domestic Science/Home Science were to be taught in all the years of a BA (Pass) course, it is a matter of common knowledge that the extent and intensity with which the subject would

¹³ (2015) 17 SCC 709



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be taught to a student who is pursuing a dedicated degree course in Domestic Science/Home Science is qualitatively different from that with which the subject would be taught to a BA (Pass) student.

21. Viewed any which way, the qualification has to be in that discipline. A BA (Pass) qualification would not suffice.

22. Which takes us to the main bone of contention, which is whether the Master's degree in Domestic Science, by the respondents, would qualify them in terms of the qualifications prescribed in the advertisement. The respondents' contention is that, as a Master's degree in Domestic Science is a higher qualification, when compared to a Bachelor's Degree in Domestic Science, the possession of the former would suffice to satisfy the requirement of the possession of the latter.

23. When we travel through the judgments of the Supreme Court on the issue of whether the possession of a qualification higher than that prescribed, in the absence of the actual prescribed qualification, would entitle a candidate for consideration for selection against the post concerned, we find an interesting trajectory of opinions. Also, all decisions are rendered by Benches of two Hon'ble judges of the Supreme Court.

24. We proceed, therefore, to undertake a chronological precedential excursion.



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25. *P.M. Latha v. State of Kerala*¹⁴

25.1 The Supreme Court was concerned, here, with recruitment to the post of lower primary/upper primary teachers in government schools in Kerala. The prescribed educational qualification, as contained in the advertisement, read thus:

“(1) Pass in SSLC conducted by the Commissioner for Government Examinations, Kerala, or any other equivalent qualification.

(2) Pass in TTC conducted by the Commissioner for Government Examinations, Kerala, or pass in pre-degree of Kerala University with Pedagogy as optional subject or pass in basic TTC examination (Malayalam) conducted by the Government of Madras or pass in Malayalam Vidhvan Examination.”

The appellants before the Supreme Court contended that the B. Ed. qualification held by them was higher than TTC¹⁵ and that, therefore, they were eligible for recruitment. The Supreme Court held thus:

“10. We find absolutely no force in the argument advanced by the respondents that BEd qualification is a higher qualification than TTC and therefore, the BEd candidates should be held to be eligible to compete for the post. On behalf of the appellants, it is pointed out before us that Trained Teacher's Certificate is given to teachers specially trained to teach small children in primary classes whereas for BEd degree, the training imparted is to teach students of classes above primary. BEd degree-holders, therefore, cannot necessarily be held to be holding qualification suitable for appointment as teachers in primary schools. Whether for a particular post, the source of recruitment should be from the candidates with TTC qualification or BEd qualification, is a matter of recruitment policy. We find sufficient logic and justification in the State prescribing qualification for the post of primary teachers as only TTC and not BEd. Whether BEd qualification can also be prescribed for primary teachers is a question to be considered by the authorities concerned but we cannot consider BEd candidates,

¹⁴ (2003) 3 SCC 541

¹⁵ Trained Teachers Certificate



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for the present vacancies advertised, as eligible.”

25.2 In this decision, the Supreme Court did not really examine the implication of possession, by a candidate, of a qualification higher than that prescribed, as the judgment held that it could not be said that the B. Ed. qualification held by the appellants was higher than the TTC qualification which they were required to process. It was specifically noted that the TTC was issued to teachers specially trained to teach small children in primary classes, whereas, for obtaining the B. Ed. degree, the training imparted was for teaching students of classes above primary.

26. *Jyoti K.K. v. Kerala Public Service Commission*

26.1 This case dealt with recruitment of Sub-Engineers (Electrical) in the Kerala State Electricity Board, for which the prescribed qualification read:

- “1. SSLC or its equivalent.
2. Technical qualifications –
 - (a) Diploma in Electrical Engineering of a recognised institution after three years' course of study,
 - Or
 - (b) a certificate in Electrical Engineering from any one of the recognised technical schools shown below with five years' service under the Kerala State Electricity Board,
[Not fully extracted as not relevant]
 - Or
 - (c) MGTE/KGTE in electrical light and power (higher) with five years' experience as IInd Grade Overseer (Electrical) under the Board.”

26.2 Here, again, the appellants before the Supreme Court held B.



Tech. degrees in Electrical Engineering which, they contended, were higher than the Diploma qualification in Electrical Engineering stipulated in the Notification. Additionally, the appellants placed reliance on Rule 10(a)(ii) of the Kerala State and Subordinate Services Rules, 1956¹⁶, which read:

“10. (a)(ii) Notwithstanding anything contained in these Rules or in the Special Rules, the qualifications recognised by executive orders or standing orders of Government as equivalent to a qualification specified for a post in the Special Rules and *such of those higher qualifications which presuppose the acquisition of the lower qualification prescribed for the post shall also be sufficient for the post.*”

26.3 The Supreme Court held thus:

“7. It is no doubt true, as stated by the High Court that when a qualification has been set out under the relevant Rules, the same cannot be in any manner whittled down and a different qualification cannot be adopted. The High Court is also justified in stating that the higher qualification must clearly indicate or presuppose the acquisition of the lower qualification prescribed for that post in order to attract that part of the Rule to the effect that such of those higher qualifications which presuppose the acquisition of the lower qualifications prescribed for the post shall also be sufficient for the post. *If a person has acquired higher qualifications in the same Faculty, such qualifications can certainly be stated to presuppose the acquisition of the lower qualifications prescribed for the post.* In this case it may not be necessary to seek far.

8. *Under the relevant Rules, for the post of Assistant Engineer, degree in Electrical Engineering of Kerala University or other equivalent qualification recognised or equivalent thereto has been prescribed. For a higher post when a direct recruitment has to be held, the qualification that has to be obtained, obviously gives an indication that such qualification is definitely higher qualification than what is prescribed for the lower post, namely, the post of Sub-Engineer. In that view of the matter the qualification of degree in Electrical Engineering presupposes the acquisition of the lower qualification of diploma in that subject*

¹⁶ "the 1956 Rules" hereinafter



prescribed for the post, shall be considered to be sufficient for that post.

9. In the event the Government is of the view that only diploma-holders should have applied to post of Sub-Engineers but not all those who possess higher qualifications, either this Rule should have excluded in respect of candidates who possess higher qualifications or the position should have been made clear that degree-holder shall not be eligible to apply for such post. *When that position is not clear but on the other hand the Rules do not disqualify per se the holders of higher qualifications in the same Faculty, it becomes clear that the Rule could be understood in an appropriate manner as stated above.* In that view of the matter the order of the High Court cannot be sustained. In this case we are not concerned with the question whether all those who possess such qualifications could have applied or not. When statutory Rules have been published and those Rules are applicable, it presupposes that everyone concerned with such appointments will be aware of such Rules or make himself aware of the Rules before making appropriate applications. The High Court, therefore, is not justified in holding that recruitment of the appellants would amount to fraud on the public.”

(Emphasis supplied)

26.4 The reasoning of the Supreme Court in this judgment may be split into the following elements:

- (i) The judgment has clearly been returned in the context of Rule 10(a)(ii) of the 1956 Rules.
- (ii) The Supreme Court accepted, in the first instance, the view of the High Court that, in order for Rule 10(a)(ii) to apply, the higher qualification must clearly indicate or presuppose the acquisition of the lower qualification prescribed for the post.
- (iii) Thereafter, the Supreme Court accepted the appellants’ contention that the B. Tech. Qualification possessed by them



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entitled them to the benefit of Rule 10(a)(ii), *vis-à-vis* the Diploma qualification required under the Notification, on two grounds:

(a) The Supreme Court first held that, if the higher qualification is obtained in the same Faculty, the qualification “can certainly be stated to presuppose the acquisition of the lower qualification prescribed for the post”.

(b) The second consideration which weighed with the Supreme Court was that a degree in Electrical Engineering was the prescribed qualification for recruitment to the post of Assistant Engineer, which was higher than the post of Sub-Engineer, to which the appellants aspired. A qualification prescribed for recruitment to a higher post could, according to the Supreme Court, be certainly regarded as higher than the qualification prescribed for recruitment to the lower post. Reasoning thus, the Supreme Court held that the qualification of Degree in Electrical Engineering was higher than the qualification of Diploma in Electrical Engineering and presupposed acquisition of the latter qualification.

(iv) The manner in which the High Court had understood Rule 10(a)(ii), and its applicability in the facts of the case, was also found to be acceptable as there was no exclusion of degree



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holders from consideration for the post of Sub-Engineer.

27 *State of Punjab v. Anita*

27.1 This case involved appointment to posts of JBT/ETT teachers in a school. The qualifications and experience prescribed read as under:

- “(i) Matric with two years’ course in JBT training; and
- (ii) Knowledge of Punjab and Hindi language of matriculation standard or its equivalent.”

27.2 The respondents before the Supreme Court were holders of degrees such as MA, M. Sc., M. Com and the like which, they contended, were higher than the prescribed qualification for recruitment as JBT teacher and, that, therefore, they were eligible for appointment to the post. The Supreme Court, at the outset, took stock of Rule 6 of the Punjab Privately Recognised Schools Employees (Security of Service) Rules, 1981, which mandated procession of the qualifications and experience specified against a post to entitle a person to be appointed to that course. The Supreme Court noted that, undisputedly, none of the respondents possessed the qualifications stipulated for appointment as JBT teacher. The Supreme Court thereafter relied on the judgment in *P.M. Latha* and *Yogesh Kumar v. Govt (NCT of Delhi)*¹⁷, both of which rejected the argument that the B. Ed. qualification prescribed by the candidate was higher than the prescribed TTC requirement and, therefore, entitled the candidates to

¹⁷ (2003) 3 SCC 548



recruitment. Following these judgments, the Supreme Court held:

“13. *A perusal of the aforesaid judgments leave no room for any doubt that it is imperative for the candidates to possess the statutory qualification prescribed for appointment to the posts, to which they are seeking appointment. In view of the position declared by this Court, qualifications of BEd and other qualifications possessed by the private respondents, namely, MA, MSc, MCom, etc. cannot be treated as higher qualifications with reference to the prescribed qualifications (JBT/ETT). We, therefore, find the reasons recorded by the DEO in the impugned order dated 4-4-2005 were fully justified, and in consonance with the legal position declared by this Court, as has been noticed hereinabove.*”

(Emphasis supplied)

27.3 The Supreme Court thereafter referred to the judgment in ***Jyoti K.K.*** distinguishing the said case from the facts before it, the Supreme Court observed that the decision in ***Jyoti*** was rendered the context of Rule 10(a)(ii) of the 1956 Rules, and that there were no similar rules applicable in the facts before it.

27.4 The Supreme Court, therefore, reversed the judgment of the High Court, which had held the respondents to be qualified for recruitment as JBT/ETT teachers.

28 None of these cases, therefore, examined, in principle, whether the possession of a higher qualification, absent the prescribed qualification, would suffice to entitle a candidate for consideration for recruitment to the post in question. Though ***Jyoti*** addressed the issue, it was in the context of Rule 10(a)(ii) of the 1956 Rules and, therefore, the applicability of the said decision in a case where such a rule was



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not available may be questionable, as held in *Anita*.

29 *Parvaiz Ahmad Parry v. State of J & K*

29.1 This is a decision of considerable importance, given the factual matrix of the case before us.

29.2 The appellant before the Supreme Court in this case was the holder of a B.Sc Degree in which Forestry was one of the main subjects. He, thereafter, also acquired an M.Sc (Forestry) degree from the same University. He further passed the National Eligibility Test in Forestry from the Indian Council of Agricultural Research.

29.3 The Jammu and Kashmir Forest Service (Gazetted) Recruitment Rules, 1970¹⁸ prescribed, for recruitment to the post of Range Officer, the qualification of “B.Sc (Forestry) or its equivalent from any university recognised by the Indian Council of Agricultural Research”. The appellant was declared ineligible for recruitment as Range Officer for want of processing the prescribed qualifications, against which he petitioned the High Court of Jammu and Kashmir. The writ petition was dismissed by the learned Single Judge and, thereafter, a Division Bench rejected the appeal preferred thereagainst. The appellant, therefore, appealed to the Supreme Court.

29.4 The contention of the appellant before the Supreme Court, with which we are concerned, was that as Forestry was one of the subjects taught in all years of the B.Sc course which the appellant had

¹⁸ "the 1970 Rules" hereinafter



undertaken, and as the appellant possessed, additionally, the higher qualification of M.Sc (Forestry), he could not be regarded as ineligible for recruitment as Range Officer.

29.5 The Supreme Court held in favour of the appellant, reasoning thus:

“13. As would be clear from the undisputed facts mentioned above, the minimum qualification prescribed for applying to the post of Jammu and Kashmir Forest Service Range Officers Grade I was “*BSc (Forestry) or equivalent from any university recognised by ICAR*”. It is not disputed that the appellant had to his credit a qualification of BSc with Forestry as one of the major subjects and Masters in Forestry i.e. MSc (Forestry), on the date when he applied for the post in question, which satisfied the eligibility criteria so far as the qualification was concerned.

14. We do not agree with the reasoning of the High Court that in order to be an eligible candidate, the appellant should have done BSc in Forestry and since he had not done so, he was not considered as an eligible candidate. This reasoning, in our view, does not stand to any logic and is, therefore, not acceptable insofar as the facts of this case are concerned.

15. In our considered view, firstly, if there was any ambiguity or vagueness noticed in prescribing the qualification in the advertisement, then it should have been clarified by the authority concerned in the advertisement itself. Secondly, if it was not clarified, then benefit should have been given to the candidate rather than to the respondents. Thirdly, even assuming that there was no ambiguity or/and any vagueness yet we find that the appellant was admittedly having BSc degree with Forestry as one of the major subjects in his graduation and further he was also having Master's degree in Forestry i.e. MSc (Forestry). In the light of these facts, we are of the view that the appellant was possessed of the prescribed qualification to apply for the post in question and his application could not have been rejected treating him to be an ineligible candidate for not possessing prescribed qualification.

16. In our view, if a candidate has done BSc in Forestry as one of the major subjects and has also done Masters in Forestry i.e. MSc (Forestry) then in the absence of any clarification on such issue, the candidate possessing such higher qualification has to be held to possess the required qualification to apply for the post. In



fact, acquiring higher qualification in the prescribed subject i.e. Forestry was sufficient to hold that the appellant had possessed the prescribed qualification. It was coupled with the fact that Forestry was one of the appellant's major subjects in graduation, due to which he was able to do his Masters in Forestry."

(Italics in original; remaining emphasis supplied)

29.6 The Supreme Court has, therefore, in this judgment, held that, where the prescribed educational qualification is B.Sc (Forestry), a candidate who was holding a B.Sc degree in which Forestry was one of the main subjects, and was additionally holding the higher qualification of M.Sc, would *ipso facto* be eligible for recruitment to the post. In fact, holds the Supreme Court, the fact that Forestry was one of the main subjects in the B.Sc course undertaken by the candidate was only an additional consideration, and that the very possession, by the candidate, of the higher M.Sc degree in Forestry was by itself sufficient to hold him to be eligible for the post.

30 Zahoor Ahmad Rather

30.1 Proceeding, next, to *Zahoor Ahmad Rather*, which was cited before us, the Supreme Court was concerned, in that case with recruitment to the post of Technician III. The prescribed essential qualification was matriculation with ITI¹⁹ in the relevant grade. Note 12 in the advertisement additionally read thus:

“12. The prescribed qualifications reflect the bare minimum requirement of the job and mere possession thereof shall not entitle

¹⁹ Indian Training Institute



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a candidate to be called for written test/interview and also grant weightage to the higher qualification in relevant line/discipline as may be decided by the Board.”

30.2 The appellants possessed diplomas in electrical engineering and electronics and communications but did not have an ITI qualification. Their candidature was rejected on the ground that they did not possess the ITI qualification.

30.3 They approached the High Court. The learned Single Judge ruled in favour of the appellants, reasoning that as a Diploma in electrical engineering entitled candidates to be recruited as Junior Engineer, which was a post higher than that of Technician III, the holding of the Diploma in Electrical Engineering pre-supposed satisfaction of the qualification of matriculation with ITI.

30.4 This decision was reversed by the Division Bench, which noted that ITI was a mandatory qualification and that the appellants did not possess ITI. Reliance was also placed, by the Division Bench, on Note 12 in the advertisement, which entitled the State Services Selection Board²⁰ from providing weightage for any higher qualification which a candidate may possess. No such weightage having been provided for the qualification of Diploma, the Division Bench held that possessing of a Diploma did not *ipso facto* entitle the candidate to treat herself or himself as eligible for appointment.

30.5 The appellants appealed to the Supreme Court.

²⁰ “SSSB” hereinafter



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30.6 The Supreme Court reasserted and expressed its agreement with the earlier decisions in *Jyoti* and *Anita*. However, it held that the decision in *Jyoti* would not apply in the absence of a provision like Rule 10(a)(iii) of the 1956 Rules, which was applicable in the case of *Jyoti*. Holding that equivalence between qualifications could not be determined by a Court, the Supreme Court upheld the decision of the Division Bench.

30.7 The Supreme Court specifically held, in para 28 of the judgment, that a person who did not possess an ITI with matriculation was *ipso facto* not eligible, and endorsed the view of the Division Bench that, while Note 12 in the advertisement empowered the SSSB to provide additional weightage for higher qualifications, no such weightage had been provided for Diploma holders.

30.8 Ergo, held the Supreme Court, a Diploma holder, who did not have a matriculation with ITI, was not entitled to be appointed as Technician III.

31 *Puneet Sharma v. Himachal Pradesh State Electricity Board*²¹

31.1 Though this decision did not particularly address the issue in controversy, for the sake of completeness, it would be appropriate to refer to it.

²¹ (2021) 16 SCC 340



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31.2 The Supreme Court, in para 2 of the report in *Puneet Sharma*, identified the issue arising before it for consideration as “whether a degree in Electrical Engineering/Electrical and Electronics Engineering is technically a higher qualification than a diploma in that discipline and, whether degree holders are eligible for appointment to the post of Junior Engineer (Electrical) under the relevant recruitment rules.”

31.3 Facially, therefore, the issue arising in *Puneet Sharma* was akin to that which arises before us. However, as the discussion hereinafter would disclose, the Supreme Court did not really address that issue and decided the matter on another consideration.

31.4 The post in question in *Punjeet Sharma* was Junior Engineer (Electrical) in the Himachal Pradesh State Electricity Board²². The prescribed minimum essential qualification was “matriculation with Diploma in Electrical/Electronics/Electronics and Communication/Computer Science from a recognized Institution/Board/University duly recognized by the Central or State Government”.

31.5 The appellants before the Supreme Court were degree holders in Electricals and Electronics. They contended that, as a degree was a higher qualification than a diploma, degree holders would *ipso facto* be eligible for recruitment as Junior Engineer²³.

²² “HPSEB” hereinafter



31.6 The High Court held that, while the normal rule was that a candidate with higher qualifications would be deemed to satisfy the prescribed lower qualification, the higher qualification had to be in the same channel. Observing that a degree in Engineering was not in the same line as a diploma in Engineering, the High Court held that degree holders would not be eligible for recruitment as JE.

31.7 The Supreme Court, in para 24 of the report, notes that “the question whether the stipulation or prescription of the particular academic qualification excludes an applicant who possesses what is termed as a higher qualification, from their candidature to the post concerned”, had often arisen for consideration before it. Thereafter, the Supreme Court takes note of the judgments in *P.M. Latha, Yogesh Kumar, Jyoti K.K., Anita* and *Zahoor Ahmed Rather*, before proceeding to deal with the controversy before it thus:

“31. In the present case, what is evident from the rules is that direct recruitment to the post of JEs in HPSEB is to the extent of 72%. Undoubtedly, eligibility is amongst those who passed in matriculation or 10+2 or its equivalent qualification. However, this Court is of the opinion that the diploma-holders' contention that the minimum qualification is matriculation and that the technical qualification is diploma is incorrect. The minimum qualification for the post cannot be deemed to be only matriculation but rather that only such of those matriculates, or 10+2 pass students, who are diploma-holders would be eligible. The term “with” in this category has to be read as conjunctive.

32. As far as the merits of the main question i.e. whether the degree-holders too can apply for the post of JEs, a close examination of the rules shows that a lion's share of the posts at the JE level is set apart for direct recruitment. However, when it is at the level of the higher post i.e. Assistant Engineer which is a promotional post direct recruitment is only to the extent of 36%. Of

²³ “JE” hereinafter



the balance 64%, various sub-quotas have been stipulated for feeder cadres; the largest percentage being for Junior Engineers. For a long time, even on the date of the advertisement, two distinct quotas (of 5%) had been set apart for promotion of Junior Engineers holding degree qualifications in the subject concerned.

33. This Court is conscious that the issue in question is whether the minimum qualification of a diploma in electrical or electronic engineering or other prescribed qualifications includes a degree in that discipline. However, the rules have to be considered as a whole. So viewed, the two sub-quotas are:

- (1) 5% enabling those diploma-holders who acquire degree qualifications during service as Junior Engineers; and
- (2) 5% enabling among those who hold degrees *before joining as Junior Engineers*.

34. The latter (2) conclusively establishes that what the rule-making authority undoubtedly had in mind was that degree-holders too could compete for the position of JEs as individuals holding equivalent or higher qualifications. If such interpretation were not given, there would be no meaning in the 5% sub-quota set apart for those who were degree-holders before joining as Junior Engineers — in terms of the recruitment rules as existing.

39. The considerations which weighed with this Court in the previous decisions i.e. **P.M. Latha**, **Yogesh Kumar**, **Anita** were quite different from the facts of this case. This Court's conclusions that the prescription of a specific qualification, excluding what is generally regarded as a higher qualification can apply to certain categories of posts. Thus, in **Latha** and **Yogesh Kumar** as well as **Anita** those possessing degrees or post-graduation or BED degrees, were not considered eligible for the post of primary or junior teacher. In a similar manner, for "Technician III" or lower post, the equivalent qualification for the post of Junior Engineer i.e. diploma-holders were deemed to have been excluded, in **Zahoor Ahmad Rather**. This Court is cognizant of the fact that in **Anita** as well as **Zahoor** the stipulation in **Jyoti** which enabled consideration of candidates with higher qualifications was deemed to be a distinguishing ground. No such stipulation exists in the HPSEB Rules. Yet, of material significance is the fact that the higher post of Assistant Engineer (next in hierarchy to Junior Engineer) has nearly 2/3rds (64%) promotional quota. Amongst



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these individuals, those who held degrees before appointment as Junior Engineers are entitled for consideration in a separate and distinct sub-quota, provided they function as a Junior Engineer continuously for a prescribed period. This salient aspect cannot be overlooked; it only shows the intent of the rule-makers not to exclude the degree-holders from consideration for the lower post of Junior Engineers.”

31.8 Thus, the Supreme Court did not really address the issue of whether a candidate possessing a qualification higher than that prescribed would be eligible for recruitment to a post for which the prescribed qualification was lower. Rather, the Supreme Court proceeded on the premise that separate quotas had been provided, for recruitment as JE, for diploma holders and degree holders. Allowing degree holders to compete for the posts meant for diploma holders would, therefore, result in equation of the two quotas and would militate against the idea of having separate quotas. In that view of the matter, the Supreme Court held, in para 39 of the report, that the issue which arose in *P.M. Latha, Yogesh Kumar* and *Anita* was not really arising for consideration before it.

32. *Jomon K K v. Shajimon P*²⁴

32.1 This decision is, to an extent, dispositive of the issue in controversy.

32.2 The case dealt with recruitment to the post of Boat Lascar in the Kerala State Water Department. Among the essential qualifications prescribed for recruitment was “possession of Current Lascar’s



Licence”. The appellant before the Supreme Court possessed a Syrang’s licence. The post of Lascar was admittedly a feeder post for the post of Syrang. The contention of the appellant was, therefore, that as he held a licence for the post of Syrang, which was a promotional post from that of Lascar, he was entitled to be considered for appointment against the post of Boat Lascar, which only required a Lascar’s licence. Significantly, the appellant placed reliance on decision in *Parvez Ahmed Parry*.

32.3 The Supreme Court identified, in para 12 of the report, the central issue of law arising for consideration as “whether the appellant, who did not hold Current Lascar’s License but was a holder of Syrang’s license could have been considered qualified to participate in the recruitment process as well as appointed”. The Supreme Court addressed the issue thus:

“20. Next, turning to the crux of the issue, it is absolutely necessary to bear in mind that though the posts of Syrang and Lascar are included in Class III of the Subordinate Service, the requisite qualifications for appointment on such posts as ordained by the Special Rules are different. Moreover, it is specifically ordained by Rule 6 of the Special Rules as follows:

“6. Other Qualifications. - No person shall be eligible for appointment to the categories specified in column (1) of the Table below by the method specified in column (2) unless he possesses the qualifications prescribed in the corresponding entry in column (3) thereof.”

21. As noted in the factual narrative, possession of a current Lascar's licence is an essential qualification for anyone aspiring for the post of Lascar. This is what is laid down in column (3), i.e., the qualifications required; and going by what is said therein read with Rule 6, there can be no gainsaying that apart from those having a



current Lascar's licence, none else is eligible. The word “current” is also significant in the sense that the Rules insist on a subsisting licence, i.e., a certificate of competency, which is valid and operative during the time the last date for receiving applications intervenes.

22. The advertisement did not require anything else other than what the Special Rules require. The absence of express mention that those holding a Syrang's licence or a Driver's licence which, according to the Director, are superior to a Lascar's licence, is insignificant, irrelevant and immaterial having regard to the clear terms of Rule 6 (supra).

23. Viewed from a different angle, on a conjoint reading of Rule 6 of the Special Rules and the advertisement, we find both mentioning a particular qualification, i.e., a current Lascar's licence, which each aspirant has to possess for being considered eligible to participate in the process of selection, thereby creating a distinct class and it is aspirants falling in such class alone who could have applied for being considered. Thus, any aspirant, even though possessing a Syrang's licence or a Driver's licence not being part of such distinct class, could not have been considered eligible. The classification has not been shown to be and is not unreasonable.

24. True it is, from the reply statement of the Director filed before the Tribunal and also from the 2010 Rules, it does appear that the holder of a Syrang's licence is mandatorily required to obtain and have a Lascar's licence for 2 years and, therefore, without having a Lascar's licence one cannot apply for a Syrang's licence. By the same analogy, it could be presumed that the holder of a Syrang's licence is having the requisite eligibility to be a Lascar. However, what turns the tide against the appellant is the requirement of the ‘current’ Lascar's licence, discussed above, which the appellant did not have on the last date for receiving applications.

27. There is one other important aspect which also cannot be lightly overlooked. We shall assume for a moment that though the process was commenced for appointment on vacant posts of Lascar, there was no illegality in persons having Syrang's licence being permitted to participate. Of course, there could be aspirants holding Lascar's licence in sufficient numbers who might not have the higher qualifications necessary for even appearing for a viva voce to aim at possessing a certificate of competency as Syrang.



Those aspirants, holding a Lascar's licence, might not also be so capable and/or competent for obtaining a Syrang's licence. After all, all individuals are not blessed with the same level of intelligence, human abilities and intellect. The distribution of innate abilities and intellectual prowess being far from uniform, resulting in a diverse spectrum of human potential, it is axiomatic that aspirants having only a Lascar's licence can never be considered for direct recruitment on any post in Class III of the Subordinate Service other than a Lascar. It is quite but natural that in the matter of observation, perception and memorisation of details of principles of navigation, and skill in respect of seamanship, there would be significant differences in the faculties of different individuals. If persons holding Syrang's licence - who are obviously better equipped than persons holding Lascar's licence - are allowed to apply and participate in the process for appointment on the post of Lascar, the probability of the persons holding Lascar's licence being outperformed by the persons holding Syrang's licence would be quite high. It could also be a distinct possibility where all the vacant posts of Lascar are filled up by persons having Syrang's licence but not having a current Lascar's licence as per the statutory requirement. That would pose a real difficulty for persons not so fortunate and lacking in higher intelligence, abilities and intellect, for, they would cease to have a level playing field of competing with other similarly qualified candidates, and left to compete with candidates having higher qualifications despite the zone of consideration having been specially carved out for holders of current Lascar's licence. It is not that the holders of Syrang's licence are left in the lurch. Those having Syrang's licence could well compete for appointment on the post of Syrang in the 50% direct recruitment quota along with others having current Syrang's licence. If, in case, all the vacant posts of Lascar are filled up by persons having Syrang's licence and such holders of Syrang's licence do not participate in the process for direct recruitment to the post of Syrang, it is fairly likely that the persons holding Lascar's licence would never secure any public employment. That could not have been the intention of a welfare State.

28. Also, it cannot be gainsaid that not only the qualifications but the nature of duties required to be performed and the nature of service to be rendered by a Lascar and a Syrang are different. Merely because the post of Lascar is a feeder post for promotion to the post of Syrang does not *per se* make the holder of a Syrang's licence qualified for the job of a Lascar. Thus, nothing much turns on it.



29. Law is well-settled that an appointment made contrary to the statute/statutory rule would be void [see: *Pramod Kumar v. U.P. Secondary Education Services Commission*²⁵].

30. Based on such consideration, we are *ad idem* with the Division Bench of the High Court that KPSC could not have included candidates with licences other than a Lascar's licence in the "Ranked List" and proceed to recommend those candidates for appointment.

31. On merits, therefore, no legally protected right of the appellant having been affected by the impugned action, he has no valid claim.

32. We have considered the decisions of this Court in *Parvaiz Ahmed Parry* (supra) and *Chandra Shekhar Singh* (supra).

33. In *Parvaiz Ahmed Parry* (supra) the appellant therein possessed degrees in BSc with Forestry as one of his major subjects as well as MSc (Forestry). The qualification prescribed in the Advertisement was "*BSc (Forestry) or equivalent from any university recognised by ICAR*". This Court held that the appellant's qualifications were equivalent to the minimum prescribed qualifications and should be considered for the concerned post.

36. We hasten to add that whether or not the action of the employer to exclude an aspirant from the process of selection (on the ground that either he is over qualified for a particular post or has qualifications which, being over and above what is ordained by statutory rules or rules framed under the proviso to Rule 309 of the Constitution, does not match the qualification specifically required) is justified has to be decided considering the rules governing the selection, the qualifications prescribed, the nature of duty to be performed, the nature of service to be rendered and a host of other factors. It has to be remembered that, at times, the employer's need to have the right people at the right place, and not always the higher qualified, has to be conceded. We know of decisions holding that over-qualification cannot be a disqualification since such an approach amounts to discouraging the acquisition of qualifications on the one hand and on the other, such an approach could be seen as arbitrary, discriminatory and not in national interest. However, this principle cannot be put in a

²⁵ (2008) 7 SCC 153



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straitjacket imposing rigid or inflexible rules or norms. Lack of public employment opportunities in sufficient numbers may force even a Master degree holder to apply for the job of a peon but, if he is appointed upon his application being favourably considered, what happens to the aspirants who have not had the means of pursuing study beyond the 12th standard? Do they remain unemployed forever, if all or majority of the posts of peon are filled up by such degree holders? What happens if the Master degree holder, in pursuit of greener pastures, leaves the post of Peon for a better and secured higher job commensurate with his qualifications after a couple of years? Does it not, in such a case, burden the public exchequer by requiring the employer to initiate a fresh selection process? Is not the State, as a model employer, obliged to ensure that the posts of peon are filled up only by those having the basic qualification, and not by over qualified candidates, for sub-serving the common good? Does not the State have the obligation to strive to ensure that all citizens have adequate means of livelihood? These are questions which no Court can afford to ignore. We end by saying that each case that comes before the Court has to be decided on its own peculiar facts and the problem that it presents for resolution and that there can be no universally accepted rule that every time, a higher qualified candidate is to be preferred to a candidate who matches the essential qualification required for the post.”

32.4 In the afore-extracted paragraphs, the Supreme Court has relied on Rule 6 of the Special Rules of 1975 which applied in the case before it and which provided that possession of the prescribed qualification was mandatory. The Supreme Court also noted that the qualifications for appointment as Lascar and Syrang were distinct and different.

32.5 In that view of the matter, the Supreme Court held that possession of a Syrang’s Licence was irrelevant and that a person who did not possess a Current Lascar’s License could not qualify for recruitment as Boat Lascar. In para 24 of the report, the Supreme Court held the use of the expression “current” in the prescribed



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qualifications as pivotal. A current and subsisting Lascar's license was, therefore, an indispensable requirement for appointment as Boat Lascar.

32.6 *The decision in **Parvaiz Ahmed Parry** was distinguished by the Supreme Court, in para 33 of the report, by observing that the issue there was that of equivalence of the qualification held by the appellant before the Supreme Court with the qualification of B.Sc (Forestry).*

32.7 Of particular significance, to the issue before us, are paragraphs 27 and 36 of the report, particularly the latter.

32.8 In para 36, the Supreme Court has held that the issue of whether a candidate possessing a qualification higher than that prescribed could be recruited against a post had to be decided considering various factors such as the rules governing the selection, qualifications prescribed, nature of duty to be performed, nature of service to be rendered and a host of other factors. The prerogative of an employer, at times too, require persons who were not over-qualified, had to be conceded. Allowing candidates who were over-qualified to be appointed to a post which required lesser qualifications was noted, by the Supreme Court, as being likely to prejudice the employment opportunities of those who were not in a position to acquire higher qualifications. Subservient of the common good, it was held, required, at times, that persons who possessed qualifications higher than those prescribed were not allowed to occupy posts which were meant for persons with lesser qualifications. This was essential in order to



ensure that all citizens had adequate means of livelihood and that over-qualified persons did not swallow up all the posts.

33. *General Manager (HR) v. K. Poovarasan*²⁶

33.1 An example of what was observed by the Supreme Court in para 36 of *Jomon* is to be found in the subsequent judgment in *General Manager (HR) v. K. Poovarasan*, which is the last judgment which we would be required to discuss. In *Poovarasan*, the Supreme Court was dealing with appointment to the post of Temporary Attender. The requisition for the post specifically stipulated that the candidate had to have passed the 8th standard but should not have passed the 12th standard or acquired any higher qualification. The respondent before the Supreme Court was a graduate. The issue before the Supreme Court was as to whether he would qualify for appointment against the post of Temporary Attender.

33.2 The Supreme Court reproduced, in *extenso*, para 36 of the *Jomon* and, thereafter, proceeded to hold thus:

“10. In the present case, it is manifest from the communication dated 20.10.2009 sent by the appellants to the Employment Exchange that the minimum qualification prescribed was a pass in the 8th standard and the maximum qualification prescribed was that the candidate should not have passed the Intermediate or 12th Standard or 10 + 2 Examination. The rationale behind prescribing an upper limit of qualification is both reasonable and equitable, namely, to provide employment opportunities to persons who, owing to circumstances of life, could not pursue higher education. The State, as a model employer, is justified in reserving certain categories of posts for such persons so that they are not

²⁶ 2026 SCC OnLine SC 1048



compelled to compete with more highly qualified candidates against whom they would ordinarily stand little chance of selection. Such a policy has consistently been upheld by the Courts. Thus, when the post was specifically intended for candidates possessing lower educational qualifications, permitting a person with higher qualifications to secure such employment would necessarily result in depriving a genuinely eligible and deserving candidate of the opportunity.

11. Even if it is assumed that there was no deliberate attempt on the part of the respondent to mislead the authorities at the initial stage, the fact remains that as per the requisition issued by the appellants, only candidates not possessing qualifications higher than the prescribed limit were eligible for consideration. Once it came to light that on the date his name was sponsored by the Employment Exchange, the respondent possessed qualifications beyond the permissible limit, he ceased to be eligible for consideration itself. Consequently, he could not have proceeded to the next stage of selection, and any subsequent action taken by the appellants would not create any enforceable right in his favour to continue in service.”

33.3 Thus, in *Poovarasan*, the Supreme Court reiterated the position that appointments had to be made in accordance with the qualifications prescribed for a post. If candidates with lower qualifications could not be treated as eligible, equally, candidates with higher qualifications were also not eligible to compete. *Poovarasan* takes *Jomon* a step ahead, and reiterates the aspect of public interest involved in ensuring that persons with higher qualifications could not be allowed to monopolise posts meant for persons with lower qualifications. The need to maintain this distinction, so as to ensure maximum employability, again stands emphasised in *Poovarasan*.

The Sequitur

34. When examines the decision cited *supra*, the only decision,



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prior to *Jomon*, which directly addresses the issue of whether a candidate with a higher qualification could be treated as eligible for a post which prescribed a lower qualification, is *Parvaiz Ahmad Parry*. Seen in isolation, that decision would seem to support the case of the respondents as the Supreme Court held, in that case, that, though the prescribed educational qualification was B.Sc (Forestry) a person who has studied B.Sc with Forestry as an additional subject and who possessed M.Sc in Forestry would *ipso facto* be entitled for consideration and appointment against the post even though he did not possess a dedicated B.Sc degree in Forestry.

35. Had *Jomon* not come along, we may have been inclined to hold in favour of the respondents, in view of the law declared in *Parvaiz Ahmad Parry*. However, *Parvaiz Ahmad Parry*, besides being a decision of a co-equal Bench, has been noticed and distinguished in *Jomon*. After noticing *Parvaiz Ahmad Parry*, *Jomon* has held, in para 36, in clear, candid and unequivocal terms, that a person holding a higher qualification cannot be recruited against a post for which the prescribed educational qualification is lower.

36. For the first time, among the judgments that we have had chance to come across, which we have noticed *supra*, the aspect of the public interest element involved in ensuring that posts were held by persons possessing the qualifications prescribed for the posts and were not thrown open to persons with higher qualifications was first noted in *Jomon*. The necessity of ensuring that everyone secured employment, and that persons with higher qualifications did not



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monopolise posts which were meant for persons with lower qualifications, was underscored in *Jomon*.

37. If two decisions of Coordinate Benches of the Supreme Court exposit contrary views, the judgment of the Supreme Court in *Union Territory of Ladakh and Ors v Jammu and Kashmir National Conference*²⁷, requires, in para 35 thereof, High Courts to follow the earlier decision. That principle, however, would apply where the earlier decision has not been noticed in the later decision. Had *Jomon* not noticed *Parvaiz Ahmad Parry*, this issue may have arisen for consideration. Once, however, the later decision has noticed the earlier decision and, thereafter, proceeded to exposit the law, a court lower in the judicial hierarchy is bound to follow the later decision. This would be all the more so where the two decisions are of co-equal Benches such as *Parvaiz Ahmad Parry* and *Jomon*.

38. We, therefore, are bound by the declaration of the law in para 36 of the *Jomon* which holds, *after noticing Parvaiz Ahmad Parry*, that the necessity, at times, of filling up posts with persons having lesser qualifications has to be recognized and conceded and that, therefore, persons not possessing those qualifications but possessing qualifications which are facially “higher” cannot aspire thereto. Our understanding is fortified by the fact that para 36 in *Jomon* has been adopted and followed by the Supreme Court later in *Poovarasan*, which reiterates the philosophy contained in para 36 of *Jomon*.

²⁷ (2024) 18 SCC 643



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39. The prevailing legal position, therefore, is that persons holding higher qualifications cannot, by virtue of such qualifications, seek recruitment to posts which are to be filled by persons with lower qualifications.

40. In that view of the matter, we cannot sustain the respondents contention that, as they possessed Master's degrees in Domestic Science/Home Science, they would be deemed to possess Bachelor's degrees in the said disciplines.

Another Aspect

41. In the particular facts of this case, there is yet another reason why we cannot accept the respondents contention. The Bachelor's degree which has been stipulated in the advertisement notice is a Bachelor's degree in Domestic Science/Home Science. None of the respondents, admittedly, satisfied the said requirement, or could have satisfied the said requirement, as they hold B.A. (Pass) degrees. The principle that a holder of a higher qualification must be deemed to possess the lower qualification, which informed the decision in *Parvaiz Ahmad Parry* and, earlier, the decision in *Jyoti*, cannot obviously apply where it was impossible for the person to possess the lower qualification. A deeming fiction cannot conflict with plain reality. Law cannot, by fiction, deem that which could not have existed at all.

42. Inasmuch as the respondents had undertaken and cleared B.A.



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(Pass) courses, they could never have possessed Bachelor's degree in Domestic Science/Home Science. There could be no question, therefore, of deeming them to have possessed the said degree because they possessed a higher Master's degree in Domestic Science/ Home Science. The principle of "deemed possession" of the lower qualification by a person who possessed the higher qualification would not, therefore, apply in the present case.

43. This is yet another reason why the respondents cannot be treated as satisfying the prescribed eligibility qualifications for appointment as Domestic Science Teacher (TGT).

Yet another aspect

44. The question of higher qualification subsuming lower qualification should be seen from one more angle. A student, when opting for a Bachelor's course in an exclusive subject, like Home Science in the present case, takes a conscious decision to direct his/her all time and energies to a particular field of education and career line. In this process, he might consciously be closing doors to many other academic and career options. For example, probably he may not get admission to a Master's programme in some other discipline or may not even be in a position to compete for jobs with other candidates having the degrees in other courses, because of his not having studied the other subjects. As in the present case, the petitioners with a B.A. degree had studied many other subjects apart from Home Science and thus had a wider scope in career options. If we allow a higher degree



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to subsume a lower degree, the candidates, who had exclusively devoted their energies in a particular subject immediately after school level, thereby restricting their academic and career progress to one field only, would have to compete with candidates, having a graduation degree with many subjects, thereby becoming eligible for a wider range of jobs. This would lead to unfair treatment to the candidates who did B.A. exclusively in a particular subject, which in the present case is Bachelor's Degree in Domestic Science/Home Science.

45. We may also view the case from employer's perspective. The employer may possibly have a 'catch them young' policy in mind when prescribing a particular qualification. Secondly, such employer would also want a higher level of dedication for the job, which can be expected more from the candidates who had chosen it as an exclusive academic path after school. The argument of a higher decree subsuming a lower degree is thus rendered specious. The employer has a right to specify the educational qualification required to be possessed by aspirants for the jobs advertised by him and courts should ordinarily not interfere in the same.

46. Additionally, it was argued by Ms. Kajal Chandra that only one college provides full-fledged BA degree in Home Science. No such plea was advanced before the Tribunal. Assuming, arguendo, only one college provides a Bachelor's degree in Domestic Science/Home Science, that would still not provide a ground for accepting candidates having Master's degree in Home Science. The reason is that every



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educational institution has a right to make assessment of the future demands of the market and for that purpose they would be entitled to take a lead in providing full-fledged degree courses, of course, as per rules and laws applicable in the country. Notably, Ms. Chandra does not seek to contend that a Bachelors' degree in Domestic Science/Home Science is non-existent, or unknown.

47. We have not deemed it necessary to advert to the judgments of this Court in *Srishti* and *Monika Sharma*, as these decisions were rendered by this Court prior to the declaration of law in *Jomon* and *Poovarasan* and cannot, therefore, continue to apply in the light of such declaration.

Conclusion

48. In view of the aforesaid discussion, we are unable to sustain the judgment of the Tribunal which is, therefore, quashed and set aside. We hold that the respondents were not eligible for being recruited as Domestic Science Teacher.

49. The writ petition, therefore, stands allowed in the aforesaid terms with no orders as to costs.

C. HARI SHANKAR, J.

VINOD KUMAR, J.

JULY 15 2026/yg/aky/dsn/AR