

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

&

THE HONOURABLE MR.JUSTICE V.G.ARUN

WEDNESDAY, THE 18TH DAY OF DECEMBER 2019 / 27TH AGRAHAYANA, 1941

OP (KAT) .No.518 OF 2019

AGAINST THE ORDER IN OA NO.1525/2019 OF THE KERALA ADMINISTRATIVE  
TRIBUNAL, THIRUVANANTHAPURAM

PETITIONERS/RESPONDENTS 1 & 2:

- 1 KERALA PUBLIC SERVICE COMMISSION  
REPRESENTED BY ITS SECRETARY, THULASI HILLS,  
PATTOM PALACE P.O., THIRUVANANTHAPURAM,  
KERALA-695 004.
- 2 THE DISTRICT OFFICER,  
KERALA PUBLIC SERVICE COMMISSION,  
DISTRICT OFFICE, MALAPPURAM-676 505, KERALA.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC

RESPONDENTS/APPLICANTS & 3RD RESPONDENT:

- 1 PRAVEEN KUMAR C.P., AGED 38 YEARS  
S/O.NARAYANAN.C.P., CHERIYA PUTHUKULANGARA, IRINJATH  
P.O., PAYYOLI (VIA), KOZHIKODE,  
KERALA-673 523, MOBILE-6238452347.
- 2 STATE OF KERALA,  
REPRESENTED BY THE SECRETARY TO GOVERNMENT,  
HIGHER EDUCATION DEPARTMENT,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001,  
KERALA.

R1 BY ADV. SMT.M.C.SINY

R2 BY GOVERNMENT PLEADER SR.GP SRI.P.N.SANTHOSH

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING BEEN FINALLY  
HEARD ON 18.12.2019, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

OP (KAT) No.518 of 2019 (Z)

JUDGMENT

K. Vinod Chandran, J.

The Kerala State Public Service Commission challenge the order of the Tribunal directing inclusion of the applicant in the rank-list for the post of High School Assistant [Natural Science] [Malayalam Medium]. The parties and documents are referred to from their status in the original application.

2. The applicant was a candidate pursuant to the notification issued at Ext.P1 for the post of High School Assistant [for brevity, 'HSA'] as indicated above. The qualification required was a Degree in the concerned subject and B.Ed./B.T. in the concerned subject. The Degree and the qualification had to be conferred or

recognised by the Universities of Kerala. Applicants for the post of HSA [Natural Science] were required to have their Degree and B.Ed. in either Botany, Zoology, Home Science or Microbiology as main subjects for Graduation or Post Graduation.

3. The applicant is a Graduate in Botany and also has a Post Graduation in the very same subject. The dispute revolves around her Bachelor of Education qualification, the Certificate of which is produced at Annexure-A3. Immediately we have to notice that it does not specify any subject in which the Degree was awarded.

4. We hence, at the outset, directed the applicant to produce some evidence as to the subject in which she was awarded B.Ed. The applicant has today produced Annex-R1(a) & (b), which are mark-lists of the course. The

applicant's contention is that it was a double Degree enabling the applicant to teach both Biology and Chemistry. Annexure-R1(g) is also a Certificate issued by the Institute in which the applicant carried on the studies, which is affiliated to the University of Mysore.

5. The Tribunal found that the applicant has a Graduation and Post Graduation in Botany and has obtained a B.Ed. [Biological Science] from the Mysore University. We fail to understand as to how the Tribunal termed the B.Ed. qualification as one in Biological Science, since it is not evident from the Certificates produced.

6. The learned Counsel for the applicant also showed us the equivalency issued by the Calicut University as also the equivalency granted by the Government. Annexure-A4 is the Equivalency Certificate

issued by the University of Calicut, which certifies that B.Ed. [Biological Science] issued by the University of Mysore after regular study is recognised as B.Ed. [Natural Science]. This is the basis for issuance of Annexure-A10 order by the Government, which also equalizes the B.Ed. [Biological Science] Degree issued by the Mysore University. Again, we have to emphasise pertinently that there is nothing in the Certificates indicating that the B.Ed. is in Biological Science. Annexure-A3 merely certifies the applicant being awarded with the Degree of Bachelor of Education without any subject specified. As we noticed, the subjects in which the petitioner is said to have been instructed, as discernible from the mark-sheets inter alia are Biology and Chemistry. In this context we have to pertinently observe that the

applicant, at least in the State Of Kerala, would not be able to teach Chemistry as a HSA, since every incumbent has to have graduation in the subject which he/she teaches.

7. Further confusion arises from Annexure-R1(c), issued by the institute affiliated to the Mysuru University, where the applicant studied, which states so:

*"His subjects in B.Ed. course were Content cum Methodology 1-Biology and Content cum Methodology 2-Chemistry-[Biological Science]."*

How the affiliated College could certify the B.Ed as one in Biological Science is not clear.

8. The learned Standing Counsel appearing for the PSC also contends that the equivalency issued is after the notification and it could apply only for future selections. Reliance is also placed on two decisions of this Court in *Lalitha Bai v. Public Service Commission [1999*

(2) KLT 894 and Rajasree v. State of Kerala  
[2009 (1) KLT 259]. We accept the contention,  
especially noticing the decision of the  
Hon'ble Supreme Court in Zonal Manager, Bank  
of India & Others v. Arya K. Babu and Another  
[(2019) 8 SCC 587]. Therein the candidate did  
not have the qualification specified in the  
notification, but on the basis of equivalency,  
this Court allowed the candidate to be  
continued in the post to the which she was  
appointed. The Hon'ble Supreme Court  
deprecatd the practice of the High Court  
granting equivalency and categorically held  
that the equivalency had to be specified in  
the notification. The reasoning was also that  
there would have been many other candidates  
with the very same qualification, who would  
not have applied in the belief that the said  
qualification is not one prescribed in the

**notification.**

**For all the above reasons, we do not agree with the Tribunal and we allow the original petition setting aside the order of the Tribunal. Parties shall suffer their respective costs.**

**Sd/-**

**K. VINOD CHANDRAN, JUDGE.**

**Sd/-**

**V.G. ARUN, JUDGE.**

**sp/18/12/19**

//True Copy//

P.A. To Judge



**APPENDIX****PETITIONER'S/S EXHIBITS:**

- EXHIBIT P1 TRUE COPY OF THE OA NO.1525 OF 2019 WITH ITS ANNEXURES.
- EXHIBIT P1 (A1) TRUE COPY OF THE NOTIFICATION INVITING APPLICATION FOR THE POST OF HIGH SCHOOL ASSISTANT (NATURAL SCIENCE) MALAYALAN (CATEGORY NO.659/2012) PUBLISHED IN THE GAZETTE DATED 31.12.2012.
- EXHIBIT P1 (A2) TRUE COPY OF THE B.SC BOTANY CERTIFICATE ISSUED TO THE APPLICANT FROM THE CALICUT UNIVERSITY ON 07.09.2001.
- EXHIBIT P1 (A3) TRUE COPY OF THE B.ED DEGREE CERTIFICATE ISSUED FROM THE UNIVESITY OF MYSORE ON 16.01.2006.
- EXHIBIT P1 (A4) TRUE COPY OF THE EQUIVALENCY CERTIFICATE ISSUED BY THE UNIVERSITY OF CALICUT CERTIFYING THAT B.ED (BIOLOGICAL SCIENCE) OF THE UNIVERSITY OF MYSORE AFTER REGULAR STUDY HAS BEEN RECOGNIZED AS EQUIVALENT TO THE B.ED (NATURAL SCIENCE) OF THE UNIVERSITY OF CALICUT ON 05.07.2018.
- EXHIBIT P1 (A5) TRUE COPY OF THE CERTIFICATE OF ONE TIME VERIFICATION DATED 06.01.2018.
- EXHIBIT P1 (A6) TRUE COPY OF THE COMMUNICATION NO.MR1(2)3992/13-(2) DATED 15.01.2018 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P1 (A7) TRUE COPY OF THE RELEVANT EXTRACTS OF THE RANKED LIST (NO.415/09/SSV) PUBLISHED BY THE KPSC FOR CATEGORY NO.68/07.
- EXHIBIT P1 (A8) TRUE COPY OF THE INTERIM ORDER DATED 30.01.2018 OF THE HON'BLE KAT IN OS (EKM) 257/2018.
- EXHIBIT P1 (A9) TRUE COPY OF THE RELEVANT EXTRACTS OF THE

RANKED LIST NO.384/18/SS II FOR CATEGORY NO.659/20912 DATED 04.06.2018.

- EXHIBIT P1 (A10) TRUE COPY OF THE GO(MS)NO.S4/2019/HED DATED 07.03.2029 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P1 (A11) TRUE COPY OF THE ORDER OF THE HON'BLE KERALA ADMINISTRATIVE TRIBUNAL IN OA(EKM) 257/2018.
- EXHIBIT P1 (A12) TRUE COPY OF THE REPRESENTATION FILED BY THE APPLICANT IN OA BEFORE THE 1ST RESPONDENT ON 12.04.2019.
- EXHIBIT P1 (A13) TRUE COPY OF THE COMMUNICATION NO.D.R4-3/50006/18-KPSC DATED 22.06.2019 ISSUED BY THE 1ST RESPONDENT IN OA.
- EXHIBIT P2 REPLY STATEMENT FILED ON BEHALF OF THE RESPONDENTS 1 AND 2.
- EXHIBIT P3 TRUE COPY OF THE ORDER DATED 20.09.2019 IN OA NO.1525 OF 2019.

RESPONDENT'S/S EXHIBITS:

- ANNEXURE R1 A THE TRUE COPY OF THE STATEMENT OF MARKS FOR THE FIRST SEMESTER B.ED DEGREE EXAMINATION ISSUED TO THE PETITIONER BY THE UNIVERSITY OF MYSORE.
- ANNEXURE R1 B THE TRUE COPY OF THE STATEMENT MARKS FOR THE SECOND SEMESTER B.ED DEGREE EXAMINATION ISSUED TO THE PETITIONER BY THE UNIVERSITY OF MYSORE.
- ANNEXURE R1 C THE TRUE COPY OF THE STUDY CERTIFICATE ISSUED BY THE RAMAKRISHNA INSTITUTE OF MORAL AND SPIRITUAL EDUCATION.