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Court : Allahabad

Decided On : Jun-13-2014

Judge : Tarun Agarwala & Ram Surat Ram (Maurya)

Appeal No. : Civil Misc. Writ Petition Nos. 31868, 32259, 32264 & 32292 of 2014

Appellant : Ajay Pratap Singh and Others

Respondent : State of U.P. and Others

Judgement :

The Uttar Pradesh Public Service Commission, Allahabad issued an advertisement dated 23.03.2013 inviting applications for various posts for Combined State/Upper Subordinate Services (Gen.Rectt.) Examination-2013 and Combined State/Upper Subordinate Services (Physically Handicapped Special Rectt.) Examination-2013.

In this advertisement, applications were invited for several posts such as Dy. Collector, Naib Tehsildar, Treasury Officer/Accounts Officer etc. There were some specific posts for which specific qualifications were prescribed. The minimum qualification for various posts was that the candidate should be a graduate but for some specific posts specific qualifications were prescribed. For example, for the post of "Sub Registrar and Asstt. P.O. (Transport)", the essential qualification was Law graduate. Similarly, for the post of "Designated Officer" the essential qualification was Post Graduate Degree in Chemistry as one of the subjects. The

petitioners contends that they are eligible to apply for the Executive posts as well as for the post of Designated Officer.

The controversy in the present writ petition relates to the post of Designated Officer, which is a special post for which special qualification was prescribed under Sl. No. 13 of the advertisement. For facility, relevant portion of Sl. No. 13 is extracted hereunder:

"13. Educational Qualification : The candidate must possess Bachelors Degree of any recognised University or equivalent qualification upto the last date for receipt of application. This should be mentioned by the candidate in the relevant column of their application form but for some posts specific qualifications have been prescribed of which the details are given below.

Designated Officer (1) Post Graduate Degree in Chemistry as one of the subjects from a University established by law in India or a qualification recognised by the Government as equivalent thereto."

The procedure pursuant to the said advertisement is that there is a preliminary examination followed by a written examination and then an interview. The advertisement indicated that the candidates could apply through online mode or through offline mode. The petitioners in writ petition nos. 31868 of 2014, 32259 of 2014 and 32264 of 2014 have applied by using the online mode. Under column no. 19 in the on line mode, the application form states "Are You Post Graduate?" for which the petitioners said 'Yes' and when clicked on the 'Yes' option, a window opened asking the candidate to fill the relevant subject. The petitioners, being a Post Graduate in Chemistry, accordingly filled up that column indicating that they are Post Graduate in Chemistry. Serial No. 20 of the application form is headed by the words "Other Essential Qualification". Most of the petitioners pressed the option 'No', meaning thereby that they had no other essential qualification except one of the petitioners who indicated that the said petitioner was a Law graduate.

The examinations were held on 26.06.2013 and the results were declared on 23.05.2014. The cut-off marks declared was as under:

For the General Category, cut-off marks was 265, for the Scheduled Caste, cut-off marks was 251, for the Scheduled Tribe cut-off marks was 222 and for Other Backward Classes the cut-off marks was 261.

For the post of Designated Officer the cut-off marks for the General Category was 222, for the Scheduled Caste cut-off marks was 198, for the Other Backward Classes cut-off marks was 222 and the Female Category cut-off marks was 209.

The petitioner no.1 in Writ Petition No. 31868 of 2014 obtained 272 marks and petitioner no.2 of this writ petition obtained 219 marks. Petitioner in Writ Petition No. 32259 of 2014 obtained 264 marks. Petitioner in Writ Petition No. 32264 of 2014 obtained 252 marks. Petitioner in Writ Petition No. 32292 of 2014 obtained 258 marks.

According to the petitioner no.1 in Writ Petition No. 31868 of 2014, he obtained more than the cut-off marks for the Executive Posts but has not been called to appear in the examination for the post of Designated Officer. The second petitioner in the same writ petition having qualifications for the post of the Designated Officer and eligible to appear in the mains examination for the post of Designated Officer has not been called to appear in the final examination and, being aggrieved, has filed the present writ petition. Similar relief has been claimed by other petitioners.

The contention of the petitioners is that for certain specific post such as Designated Officer qualifications were prescribed, which the petitioner indicated in column no.19 and that column no.20, which relates to other essential qualification did not relate specifically for these specified posts and, accordingly, the petitioner indicated 'Nil' option while filling that column.

On the other hand, the stand of the Commission is, that column no.20 relates to specific posts, which requires specific qualifications and since the petitioners did not fill up the relevant column they are not entitled to be considered for the post of Designated Officer.

The petitioner in Writ Petition No. 32292 of 2014 had applied through off line mode and, in that form also, column no.20 relates to "other essential qualifications". The Court finds that the application form indicated 04 options, which the said petitioner had filled but could not fill the qualification of having Post Graduate Degree in Chemistry on account of fact that no further columns were made available in the application form to fill the extra qualification which he possessed in addition to the qualifications which he had filled up.

In the light of the assertions and contentions of the parties, we have heard Dr. D.K.Tiwari, Sri R.N.Tiwari, Sri Santosh Kumar Pandey and Sri Akhilesh Kumar Singh for the petitioners and Sri C.B. Yadav, the learned Additional Advocate General along with Sri Ajay Kumar for the Uttar Pradesh Public Service Commission.

Serial No. 13 of the advertisement indicates that for some specific posts, specific qualifications have been prescribed. For example, for the post of Sub Registrar, the specific qualification is that the candidate should be a Law graduate. Similarly, for the post of Designated Officer, the specific qualification is Post Graduate Degree in Chemistry. The petitioners have indicated this qualification of having a Post Graduate Degree in Chemistry while filling up column no.19. The contention of the respondents that the column no.20 relates to these specific posts cannot be accepted. Heading of column no.20 is "Other Essential Qualification". The heading does not indicate that it is related to specified posts having specified qualifications and consequently, the Court finds that there is an ambiguity in column no.20, which has confused the candidates. If the Commission was asking the candidate to specify specific qualifications for specific posts, then a dedicated column should have been made for that purpose. For example, column no.20 should have been headed as "Specific Post details with specific qualification".

We find that column no.20 does not mention about specific posts. From a physical demonstration given by the Commission for filling up an application form online before the Court we find that when a candidate clicks 'Yes' in column no.20, a window opens wherein other essential qualification such as Law graduate, Commerce graduate or post graduate in Chemistry etc. is asked for. These

qualifications are nothing else but repetition of the information sought for in column no.19. The Court further, noticed that while clicking 'Yes' in column no.20 the window which opens does not mention the specific posts for which specified qualifications were asked for. We are of the opinion that the column no.20 has no relation with the specified post, for which specified qualification was prescribed in Sl. No. 13 of the advertisement. The Court also notices that this ambiguity was rectified by the Commission while issuing the advertisement in the year 2014, wherein column no. 20 indicates "specified post details with other essential qualification".

In the light of this ambiguity contained in column no. 20 of the application form, the Court is of the opinion that the benefit of this ambiguity is required to be given to the petitioners. Since the petitioners are eligible for the post Designated Officer and they have obtained more marks than the cut-off marks depicted by the Commission, the Court is of the opinion that the candidates being eligible should be permitted to appear in the Mains Examination, which is going to be held on 01.07.2014. The Court has been informed that the last date for deposit of the fee for the Main Examination is 14.06.2014 and the last date for submission of the form is 23.06.2014.

In the light of the aforesaid, we allow the writ petitions.

A writ of mandamus is issued to the Uttar Pradesh Public Service Commission, Allahabad directing them to include the name of the petitioners in the list for the post of Designated Officer. The Commission is further directed to accept their fee and forms for the Main Examination. Since the last date of deposit of fee is 14.06.2014 and time is short, we, accordingly, direct the Commission to extend the date for deposit of fee by 21.06.2014. The forms can be accepted by 23.06.2014.

In the circumstances of the case parties shall bear their own cost.

A certified copy of this order be made available to the learned counsel for the parties by Monday 16.06.2014 on payment of usual charges.

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