

(2005) 12 J&K CK 0010

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1382 of 2004

Sonam Singh

APPELLANT

Vs

SK University of Agricultural Sciences and Technology and
Others

RESPONDENT

Date of Decision : 22-12-2005

Acts Referred:

Citation : (2006) 2 JKJ 605

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Advocate : M.K. Bhardwaj, for the Appellant; W.S. Nargal, for the Respondent

Judgement

Permod Kohli, J.—Selection/appointment of respondents 3 and 4 made vide order No. 24-Estt of 2004 dated 26.5.2004, is under

challenge in the present petition. During the pendency of this petition, respondent-3 was deleted from the array of respondents in terms of order

dated 5:8.2005. It was recorded in the aforesaid order that though he was selected but he did not join and is not interested to join in the

respondent- University. Now, it is the selection/appointment of respondent-4 alone which remains subject matter of challenge in the present

petition. The main and the only ground of challenge to the selection of respondent-4 is that the said respondent is not possessed of requisite

qualification as advertised. Respondent-2 vide its Notification No. 10- Estt of 2002 dated 23.12.2002 invited applications on prescribed form for

number of posts in the faculty of Veterinary Science and Animal Husbandry and faculty of Agriculture. Two posts of Associate Professors/Junior-

Scientists were also advertised in the aforesaid notification in the discipline of Agro-forestry . The advertisement notification contains the following

stipulations regarding the qualifications and experience etc:

...

Desirable

I/Research experience as evidenced by publications

12.Assistarit Professor/Junior Scientist (8000-275-13500

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I/ Pomology Three

II/ Plant Breeding & Genetics Three

III/ Agril. Engineering One

IV/ Entomology Five

V/ Soil Science & Agril.Chemistry Four

VI/ Agril. Biotechnology Two

VII/ Agronomy Five

VIII/ Agri- Extension Two

IX/ Agro-Forestry Two

X/ Veterinary Pathology One

XI/ Vety. Public Health & Hygiene One

XII/ Live Stock Production & Management Two

XIII/ Animal Nutrition One

XIV/ Livestock Products Technology Two

XV/ Vety. Clinical Medicine and

Jurisprudence Two

XVI/ Vety.Epidemiology & Preventive

Medicine One

XVII/ Vetrin ary Physiology Two

Qualification and Experience

Essential

I/High second class Master's Degree or equivalent Postgraduate qualification in

the concerned subject.

II/Two years experience of teaching/research or Extension Education as the case may be or Ph. D. Degree in the subject concerned.

Desirable

NET qualification

Note

1. Requirement of Professional degree such as B.Sc. Ag/B.V.Sc. & A.H. shall be deemed as essential qualification for all the posts except the post

of Librarian.

2...For posts appearing under S.No. 10, Doctorate degree and for posts appearing under S.No. 12 experience is relax- able in the discipline of

Veterinary Sciences & Animal Husbandry & Agril. Engineering. However, candidates selected and appointed without Doctorate degree will be

required to obtain Ph.D within six years of their joining which failing which increments will be stopped.

2. Petitioner as also respondents 3 and 4 applied for the post of Assistant Professor/Junior Scientist in the discipline of Agro-forestry. It is alleged

by the petitioner that his application was found in order and he was invited for appearance before the selection committee on 17/18.3.2004 at 10

A.M. . He participated in the selection process. The select list came to be notified vide order No. 24- Estt of 2004 dated 26.5.2004. Petitioner's

name did not exist in the select list. Consequently order of appointment were issued in favour of respondents 3 and 4 who were declared selected

through the aforesaid select list. The main challenge to the selection of respondents 3 and 4 is that , they are Post -Graduate in the discipline of

Forestry whereas post advertised was in the discipline of Agro-forestry. Petitioner also stated that he is B.Sc. Agriculture and Post- Graduate in

Agro-forestry. B.Sc. Agriculture being an essential qualification alongwith Post - Graduation in Agro-forestry , the qualification required in the

relevant discipline , he was the only eligible person and has better claim and entitlement for the post than respondents; who were neither B.Sc.

Agriculture nor Post - Graduates in the concerned discipline namely Agro-forestry.

3. The official as also private respondent-4 have filed their respective replies to this petition. As far the reply filed by official respondents is

concerned, it is stated that the post of Assistant Professor/Junior Scientist in the pay scale of Rs. 8000- 13500 were advertised vide Notification

No. 10/Estt of 2002 dated 23.12.2002 and addendum to this Notification is issued bearing No. AUJ/Adm/03-04,1796, 1815 dated 30.6.2003

whereby experience of two years for the post of Assistant Professor/Junior Scientists was waived off in respect to candidates holding NET

qualification and the date for making applications was also extended upto 7.7.2003. Under this Notification, qualification required was : (i) B.Sc

(Agri); (ii) M.Sc in the concerned discipline ; and (iii) NET of Ph.D or 2 years experience. As many as 66 applications were received in response

to the advertisement notice. Out of which, 50 applicants were found to be eligible and they were called for interview. Petitioner being one of the

eligible candidates, was called for interview. Respondents have given bio-data and other particulars of petitioner and private respondents .

Dismissal of this petition is sought on the ground that the petitioner having participated in the selection and having failed, cannot be permitted to

challenge the selection. As far the question of eligibility/qualification is concerned, it is alleged that B.Sc Agriculture was not the only essential

qualification. According to respondents, B.Sc Agriculture/B.V.Sc were prescribed as essential qualification only by way of illustration . It is further

stated that B.Sc Forestry is more relevant than B.Sc Agriculture as far the post of Assistant Professor in Agro Forestry is concerned. According to

these respondents, Forestry encompasses a much larger field than Agro Forestry. It is further stated that petitioner and private respondents both

have acquired their Post- Graduation Degree from Dr. Y.S. Parmar University of Horticulture and Forestry, Solan (HP). It is further stated that

the courses taught in Agro- Forestry and Forestry at M.Sc. level are co- related with each other. According to respondents , the selection

committee considered the qualification possessed by the selectees as more relevant and their merit being better than petitioner, they were selected.

Regarding respondent-4, it is stated that he is B.Sc Forestry, M.Sc. Forestry and also NET qualified and he has also research experience as

project fellow . It is accordingly stated that private respondents/selectees were fully eligible, qualified and have superior merit as determined by the

selection committee and no interference is warranted in exercise of power of judicial review. It is further stated that petitioner do not figure in the

select list or even in the wait list. The petition is also said to be hit by the doctrine of delay and latches.

4. Vide interlocutory order dated 24.9.2005, it was noticed that respondent-4 is B.Sc and M.Sc Forestry and the post advertised is in Agro

Forestry , which is recognized as a separate degree and accordingly, parties were directed to place on record the relevant material to show the

subjects taught at Graduation and Post- Graduation level in the recognized Institutions/Universities of the country, where the discipline of B.Sc

Agriculture , Forestry and Agro-forestry are taught. The parties were permitted to file supplementary affidavit. Consequent upon the aforesaid

order, supplementary affidavit has been filed by one A.K. Koul, Deputy Registrar (Legal), SKUAST-Jammu. In para-2 of the affidavit, it is

mentioned that B.Sc (Agro-forestry) is no degree in any of the University of the country and the specialization can only be done in Agro- forestry

at Post -Graduation level . It is further mentioned that in SKUAST- Jammu, the students who are undergoing B.Sc Agriculture have necessarily to

qualify the courses which are enumerated in Agro- forestry, whereas in other Universities where forestry degree is awarded, the candidates are

necessarily required to qualify the subjects from agriculture and basic sciences. . Therefore, it is accordingly stated that both these qualifications i.e.

B.Sc Agriculture and B.Sc Forestry are considered as relevant for the purpose of eligibility to man the post of Assistant Professor/Junior Scientist

in Agro Forestry . The respondents have given the details of subjects being taught both in B.Sc Agriculture and B. Sc Forestry , which are as

under:.

S.No.B.Sc (Agri) S. No. B.Sc (Forestry)

1. Basic Sciences and Humanities 1. Basic Sciences and Humanities

2. Agricultural and allied sciences 2. Agriculture and closely related disciplines.

i) Agricultural Communication/ I) Agricultural Engineering

Extension Education

ii) Agricultural Economics ii) Agricultural Entomology

iii) Agro-forestry iii) Agricultural Extension
Education.

iv) Agronomy iv) Agricultural Microbiology

v) Animal Sciences v) Crop Physiology

vi) Entomology (vi) Genetics and Plant Breeding.

vii) Genetics and Plant Breeding vii) Horticulture.

viii) Vegetable Sciences viii) Biotechnology Floriculture and
Land Scaping

ix) Fruit Science ix) Environment Science.

x) Food Science and Technology x) Soil Science and Agricultural
Chemistry.

xi) Plant Pathology xi) Wild life and Range land
Management.

(xii) Soil Science and Agriculture
Chemistry

(xiii) Rural Agricultural work

Experience.

(xiv) Agricultural Engineering.

5. According to respondents, the subjects in both these courses being common, both the degrees are considered to be essential qualification for

the post in question. The respondents have explained that where there is separate college of forestry , M.Sc degree is awarded in different

disciplines of which Agro-forestry is one of the discipline to quote ,"" it is stated that Dr. Y.S. Parmar University, Solan (HP) is imparting five M.Sc.

Degrees in various branches in forestry which are as under:

1. Silviculture and Forestry Management.

2. Agro forestry and Ecology.

3. Genetic resources, three breeding and Biotechnology

4. Forest utilization.

5. Forest protection.

6. Based upon the subjects which are taught in the aforesaid disciplines, it has been stated that most of the subjects are common. It is further stated

that in other Universities of the country, there is no separate college in Forestry. In Punjab Agricultural University, Ludhiana, the Forestry

Department is known as Department of Natural Resources and the degree awarded is M.Sc Forestry whereas in SKUAST-Jammu the degree

awarded at B.Sc. level is Agro Forestry because the University at presently is not awarding degree at M.Sc level . Respondents have also placed

on record brochure of Indian Council of Agricultural Research showing the academic regulations and curriculum for under Graduate Program in

Forestry and the subjects which are taught in this discipline are: (i) Basic Science and Humanities ;(ii) Agriculture and closely related disciplines ;

and (iii) Forestry Sciences. Further relevant papers of this discipline are shown in this brochure. Respondents have also placed on record brochure

of Punjab Agricultural University, Ludhiana where also courses taught at Graduate and Post- Graduate level are given.

7. Petitioner has also filed supplementary affidavit. It is stated that petitioner is B.Sc Agriculture from Choudhary Charan Singh University , Meerut

whereas the selectees are B.Sc. Forestry from Y.S. Parmar University of Horticulture and Forestry , Solan. It is stated that subjects studied by the

petitioner and the private respondents are different. It is also stated that the subjects of M.Sc Agro Forestry and M.Sc Forestry are also different.

8. The respondents have also produced the record of selection in the sealed cover , which was opened and examined . Petitioner has secured 40

marks out of 100 whereas respondent-4 has secured 82 marks out of 100. Petitioner's name is not even in the wait list. The Selection Committee

comprised of Vice Chancellor of SKUAST- Jammu, two experts from other Universities, one Government nominee and two other members who

are also the Scientists of the University. As far the merit is concerned, petitioner is no-where nearer to the merit of the selectees. The only question

that requires consideration is, whether the qualification possessed by private respondent was relevant and qualification for the post in question fall

within the discipline advertised. Admittedly, the post is of Scientist in the field of Agriculture/Forestry. Which are the relevant subjects and which

qualification is more relevant, is a question on which the court can not express its opinion. It is definitely a field of expert. Whether two

qualifications possessed by the candidates are equal or not, is a question which needs to be addressed by an expert in the field . From the

composition of the selection committee, it is found that all the six members were the experts in the field of agriculture and two of them were the

experts from out-side Universities and were subject experts. There is no allegation of malafide , favouritism etc against the members of the

committee. The experts found the qualification possessed by the private respondents to be relevant for the post in question. They also determined

and evaluated the merit of the candidates including the petitioner and respondent-4 and found respondent-4 to be more meritorious than the

petitioner. As noticed above, petitioner is no- where nearer to the merit of respondent-4. In exercise of power of judicial review, the court has

primarily to examine the manner of exercise of power for any decision arrived at by the Administrative Authority or even by the experts on the

Selection Committee. The court cannot re-examine the decision itself . To know the equivalence and relevance of the course, is the domain of the

experts. The court having no such expertise , cannot ignore the experts' opinion.

9. In view of the fact that the relevance of the qualification for the purpose of post in question having been examined by the experts, the court has no reason to disagree with them and formulate its own opinion.

10. In view of the above, I do not find any reason to interfere in the matter of selection like the present one. This petition fails and is accordingly dismissed. Record is returned to Mr. W.S. Nargal, learned Counsel for respondents.