
(2015) 07 GAU CK 0021
In the Gauhati High Court
Case No : WP(C) No. 904 of 2014

Sonu Sahu and Others

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 21-07-2015

Acts Referred:

Constitution of India, 1950 — Article 226, 309

Citation : (2015) 07 GAU CK 0021

Hon'ble Judges : Ujjal Bhuyan, J

Bench : Single Bench

Advocate : A.D. Choudhury, for the Appellant; B. Chetry, Sr. Govt. Advocate, R. Goswami and S.N. Baruah, Advocates for the Respondent

Final Decision : Allowed

Judgement

Ujjal Bhuyan, J—By filing this petition under Article 226 of the Constitution of India, petitioners seek quashing of select list dated 12.02.2014 for the post of Draftsman/Planning Draftsman-II in the Directorate of Town & Country Planning, Assam.

2. Case of the petitioners is that an advertisement was issued by the Director, Town & Country Planning, Assam, which was published in the newspaper on 05.09.2013, inviting applications from eligible candidates to fill up 16 vacancies in the post of Draftsman/Planning Draftsman-II with the following breakup for earmarked categories -

"STP - 1

OBC - 3

General - 12"

The advertisement prescribed that the age of the candidates should be between 18 to 38 years as on 01.01.2013, the upper age limit being relaxable by 5 years in case of ST and SC candidates. As per the advertisement, educational

qualification prescribed was that candidates should possess the qualification of 2 years Certificate Course in Draftsmanship (Civil) from Government recognized institution.

3. According to the petitioners, they are qualified to hold the post of Draftsman/ Planning Draftsman-II as they have competed 2 years Certificate Course in Draftsmanship (Civil) from Industrial Training Institute, Jorhat and Guwahati respectively. Written examination was held on 15.12.2013. Petitioners appeared in the written examination and were declared successful. They, thereafter appeared for viva-voce before the Selection Committee on 06.02.2014. It is the contention of the petitioners that they had performed reasonably well in the viva-voce by answering all the questions put to them and therefore they were expecting their final selection.

4. On 12.02.2014, a select list was published which was pasted in the Notice Board of the Directorate. The following candidates were shown selected against the respective categories:--

"GENERAL

1. Jaya Chetry
2. Jonali Barman Das
3. Barsha Rani Handique
4. Preeti Kashyap
5. Ankur Sharma
6. Priya Kumari
7. Trishna Bharali
8. Indu Bibha Bora
9. Bulti Das
10. Pranita Devi
11. Bhaskar Jyoti Chutia
12. Jadav Bora

OBC

1. Manash Pratim Bora
2. Hemlata Bhuyan
3. Dipti Hazarika

STP

1. Shyamal Kumar Rabha"

5. Aggrieved by their non-selection, petitioners have filed the present writ petition seeking the relief as indicated above.

6. Contention of the petitioners is that unqualified candidates have been selected on the basis of pick and choose. As per the advertisement, qualification prescribed is 2 years Certificate Course in Draftsmanship (Civil) from Government recognized institution. None of the 12 selected candidates in general category possess the requisite certificate in Draftsmanship; in fact all of them are qualified Architects. Likewise, the 4 selected candidates under the reserve category also do not possess the 2 years Certificate Course in Draftsmanship (Civil) from Govt. recognized institution, rather they have undergone 3 years diploma course, which qualify them to be appointed as Junior Engineer. Further contention is that there was no transparency in the selection process. The select list was hung up for a little while in the office of the Director and thereafter removed in order to withhold the names of the selected candidates.

7. On 19.02.2014, this Court issued notice and passed an interim order to the effect that appointment should not be given to anyone against the post of Draftsman/Planning Draftsman-II who do not possess Draftsmanship (Civil) Certificate from a Govt. recognized institution.

8. Respondent No. 2 i.e., Director of Town & Country Planning has filed an affidavit. Details of the selected candidates have been furnished, which are extracted hereunder:--

It is stated that the selected candidates have technical qualifications which are higher than the qualification prescribed in the advertisement. None of the selected candidates possess qualification which is less than or lower than the one prescribed in the advertisement. The advertisement did not bar candidates possessing higher qualification from participating. The selection was conducted in accordance with the laid down procedure maintaining all fairness. 96 candidates had qualified in the written test and became eligible for viva-voce. 48 candidates were interviewed on 04.02.2014 and the remaining 48 candidates were interviewed on 06.02.2014. Candidates who had appeared in the interview on 06.02.2014 could not secure more marks than the candidates who had appeared in the interview on 04.02.2014. Selection was conducted by the Selection Committee in order of merit having regard to the vacancies earmarked for the reserve categories. In respect of one of the selected candidates, namely, Smti. Jonali Barman Das, the Govt., vide communication dated 10.02.2014 had relaxed her upper age by 11 months to make her eligible for the selection process.

9. Director of Town & Country Planning has also filed an application for vacation of the interim order dated 19.02.2014, which has been registered as MC No. 1616/2014. It is contended that responding to the advertisement dated 05.09.2013, candidates possessing minimum 2 years Certificate Course in Draftsmanship (Civil) as well as those possessing higher qualification of 3 years diploma in Architectural Assistantship and Civil Engineering had applied. They

were allowed to appear in the interview and some of them were selected in the select list dated 12.02.2014 solely on merit having regard to the reservation policy. It is stated that even though as per the advertisement, minimum qualification prescribed is having 2 years Certificate Course in Draftsmanship (Civil), 3 years diploma in Architectural Assistantship and Civil Engineering is a higher qualification compared to the 2 years Certificate Course in Draftsmanship (Civil).

10. In view of the stand taken by the Director in the counter-affidavit, this Court passed the following order on 15.12.2014:--

"In the counter affidavit filed by the appointing authority i.e. the Director of Town & Country Planning, Assam, it has been stated thus:

"4. That at the time of filing the vacating petition vide Misc. Case No. 1616/2014, a clarification letter dated 20.5.14 issued by the Director of Technical Education, Assam was enclosed as Annexure-E, wherein it was categorically stated that 3 years diploma course of Architectural Assistantship and Civil Engineering & Planning are the higher qualification than 2 years certificate course in Civil Draftsmanship and the subjects are also almost same.

5. That the deponent states that - for more clarification with regard to the syllabus of those 3 years diploma course and 2 years certificate course in Draftsmanship as stated above the Head of the Department of the said respective course vide their letter dated 19.8.14 informed to the Principal of Girls Polytechnic, Guwahati and the same was forwarded to the Director of Technical Education, Assam, Kakhlipara on the same day, wherein the syllabus are found to be almost same except a few syllabus. In this respect, the Director of Technical Education, Assam informed the matter to the deponent vide letter dated 22.8.14 in reference to his earlier letter dated 20.5.14."

As per the advertisement, the required qualification is 2 years certificate course in Draftsmanship (Civil) from Government recognised institution. Thus the candidates not only are required to have qualification of 2 years certificate course in Draftsmanship (Civil), but they are to obtain the same from Government recognised institution. In the selection, some of the candidates having 3 years Diploma Course in Architectural Assistantship and Civil Engineer and Planning have been selected, making a grievance against which the petitioners, who are holder of 2 years certificate course in Draftsmanship (Civil) have filed the writ petition.

As per the Annexure-C to the counter affidavit filed by the Director of Town & Country Planning, there are atleast 5 subjects in 2 years certificate course, which are not to be found in 3 years Architectural Assistantship. Similarly 2 subjects are not to be found in 3 years Civil Engineering and Planning, which are available in 2 years certificate course. This is precisely the reason as to why the expressions used are "almost same" and "are found to be almost same except a few syllabus". In such circumstances, question necessarily arises as to whether

those selected candidates really conform to the requirement of qualification laid down in the advertisement, which is 2 years certificate course in Draftsmanship (Civil) from Government recognised institution. The subject, which are not available in 3 years Architectural Assistantship and 3 years Civil Engineering & Planning are indicated below:

3 YEARS ARCHITECTURAL ASSISTANTSHIP

1. Strength of Materials
2. Material Testing Lab
3. Transportation Engg.
4. Building Byelaws & Contract
5. Structural Drawing.

In addition to the above, 2 more subjects, namely Engineering Materials, Working Drawing and Building Drawing are said to be taught as material & method of construction; as CAD and 3 YEARS CIVIL ENGG. & PLANNING

1. Strength of Materials
2. Material Testing Lab.

In addition to the above, in this discipline also, 2 subjects, namely, Engineering Mechanics and Building Drawing are taught as applied mechanics and CAD respectively.

In view of the above, it is the definite stand of the petitioners that the said selected candidates do not conform to the requirement of the qualification laid down in the advertisement and referred to above. The Director of Town & Country Planning is directed to file an additional affidavit clarifying the above position with the definite statement as to whether the candidates belonging to the aforesaid 2 categories are eligible for appointment and if so on what basis."

11. In terms of the order of this Court dated 15.12.2014, the Director has filed an additional-affidavit on 19.01.2015. Stand taken in this affidavit is that though required qualification in the advertisement is 2 years Certificate Course in Draftsmanship (Civil) from Govt. recognized institution, it does not necessarily mean that candidates having 3 years diploma course in Architectural Assistantship and Civil Engineering & Planning from Govt. recognized institutes are not eligible. Some of the selected candidates have 3 years diploma course in Architectural Assistantship and Civil Engineering and Planning. It is stated that 5 subjects of the 3 years diploma course in Architectural Assistantship and 2 subjects of the 3 years diploma course in Civil Engineering and Planning are not included in the syllabus of the 2 years Certificate Course in Draftsmanship (Civil); but some extra subjects are taught in the 3 years diploma course in Architectural Assistantship and Civil Engineering and Planning. It is further stated that the subjects of the 2 years Certificate Course in Draftsmanship (Civil) and 3 years

diploma course (both Architectural Assistantship and Civil Engineering & Planning) do not exactly conform to each other though the contents are correlated to Civil Engineering and Architecture. Though subjects may differ in the syllabus of the two courses, but the course content is equivalent and in some cases, it is more in the 3 years diploma course. Candidates having either of the qualifications as above are eligible for the post of Draftsman/Planning Draftsman-II. Selected candidates having qualification of 3 years diploma course in Architectural Assistantship and Civil Engineering and Planning are eligible for appointment to the post of Draftsman/Planning Draftsman-II having the higher qualification than the qualification prescribed in the advertisement. Selection Committee selected the candidates accordingly.

12. Respondent Nos. 7, 9, 13, 14, 15 and 18 have filed a common affidavit. Stand taken in the affidavit is that the said respondents have the eligibility as per the advertisement i.e., 2 years Certificate Course in Draftsmanship (Civil) from Govt. recognized institutions. It is contended that the selection is regulated by the Assam Town & Country Planning Subordinate Service Orders, 1991 and as per the said Service Order of 1991, the said respondents possess the 2 years Certificate Course in Draftsmanship (Civil) from recognized Govt. institution. Therefore, there cannot be any doubt or question mark over their selection. It is also contended that petitioners were aware that candidates having 3 years diploma in Architectural Assistantship and Civil Engineering were appearing in the selection process, but no objection was raised. Only when the petitioners failed to get selected, the challenge has been instituted. Selection carried out was fair and transparent. The Court's order dated 19.02.2014 made it abundantly clear that only those candidates who possess the 2 years Certificate Course in Draftsmanship (Civil) from a Govt. recognized institution should be appointed. Therefore, there is no bar for the appointment of the said respondents pursuant to their selection.

13. The remaining selected candidates have filed application seeking vacation of the interim order dated 19.02.2014, which has been registered as MC No. 3139/2014. Basic contention of the said respondents is that petitioners had appeared in the selection, but were not successful. Syllabus of 2 years Certificate Course of Draftsmanship (Civil) and 3 years diploma course in Architectural Assistantship and Civil Engineering are almost same. But in the 3 years diploma course, which is a higher qualification, there are some more additional subjects. Selected candidates having higher qualification than the qualification prescribed in the advertisement cannot be deprived from appointment having been selected.

14. Heard Mr. AD Choudhury, learned counsel for the petitioners, Mr. B Chetri, learned Senior Govt. Advocate, Assam and Mr. R Goswami, learned counsel for respondent Nos. 3, 4, 6, 8, 10, 11, 12, 16 and 17. Also heard Mr. SN Baruah, learned counsel for respondent Nos. 7, 9, 13, 14, 15 & 18.

15. Mr. Choudhury, learned counsel for the petitioners basically confined his submissions on the point of eligibility. He submits that when the appointing

authority has prescribed the eligibility criteria and notified the same in the advertisement, it is bound to strictly follow the eligibility criteria in the selection process. The advertisement clearly stipulates that only those candidates who possess the qualification of 2 years Certificate Course in Draftsmanship (Civil) from Govt. recognized institution would be considered as eligible for the post of Draftsman/Planning Draftsman-II. Therefore, those candidates who do not possess the said qualification would be ineligible in the selection. It is not a question of having higher or a better qualification. In any case, the higher qualification that the respondents are harping on, do not encompass a lower qualification like 2 years Certificate Course in Draftsmanship (Civil) from Govt. recognized institution. Once it is held that the selected candidates do not have the eligibility criteria inasmuch as they do not possess the educational qualification prescribed, they cannot claim selection on the basis of perceived higher qualification. In support of his submissions, learned counsel has placed reliance on the following decisions:--

"1. 2012 (1) GLT 701 (Srinivas Reddy Voladri v. Union of India & Ors.)

2. Freestarman Syiemiong Vs. State of Meghalaya and Others

3. Ganapath Singh and Gangaram Singh Rajput Vs. Gulbarga University Rep. by its Registrar and Others, (2013) 11 AD 479 : AIR 2014 SC 77 : (2014) 140 FLR 69 : (2013) 14 JT 612 : (2014) LabIC 1558 : (2014) 1 LLN 1 : (2013) 13 SCALE 398 : (2014) 3 SCC 767 : (2014) 1 SCC(L&S) 669 : (2014) 3 SCJ 228 : (2014) 2 SCT 733 : (2014) 1 SLJ 205 ."

16. Per contra, Mr. Chetri, learned Senior Govt. Advocate submits that petitioners having participated in the selection process and they having failed, they cannot now turn around and object to the participation of candidates having 3 years diploma course in Architectural Assistantship and Civil Engineering. 2 years Certificate Course in Draftsmanship (Civil) and 3 years diploma course in Architectural Assistantship and Civil Engineering are in the same footing having the same subjects in both the course, except that there are some additional subjects in the 3 years diploma course. Under the Service Order of 1991, qualification prescribed for Grade-I is 3 years diploma course in Civil Engineering or Architectural Assistantship. Draftsman/Planning Draftsman-II is a Grade-II post. A person from Grade-II can be promoted to Grade-I on completion of 8 years of service in Grade-II. Therefore, the qualification prescribed for Grade-I is certainly a higher qualification than the qualification prescribed for Grade-II. As such, candidates having higher qualification cannot be disqualified from the recruitment process. As a matter of fact, it has been the thinking in the Government for conversion of Civil Engineering Draftsmanship course into Architectural Assistantship course in the Polytechnics. Selection Committee is an expert body. When Selection Committee or for that matter the appointing authority says that 3 years diploma course in Architectural Assistantship and Civil Engineering being higher qualification would be eligible, Court may not interfere with such decision of the experts. Learned Govt. Advocate places reliance on the

following decisions:--

"1. Dalpat Abasaheb Solunke and Others Vs. Dr. B.S. Mahajan and Others, AIR 1990 SC 434 : (1990) 60 FLR 172 : (1990) 2 LLJ 470 : (1990) 1 SCC 305 : (1990) 1 UJ 328

2. Vijendra Kumar Verma Vs. Public Service Commission, Uttarakhand and Others, (2010) 127 FLR 723 : (2010) 11 JT 629 : (2011) 1 SCC 150 : (2011) 1 SCC(L&S) 21 : (2010) 9 UJ 4650

3. Ganapath Singh and Gangaram Singh Rajput Vs. Gulbarga University Rep. by its Registrar and Others, (2013) 11 AD 479 : AIR 2014 SC 77 : (2014) 140 FLR 69 : (2013) 14 JT 612 : (2014) LabIC 1558 : (2014) 1 LLN 1 : (2013) 13 SCALE 398 : (2014) 3 SCC 767 : (2014) 1 SCC(L&S) 669 : (2014) 3 SCJ 228 : (2014) 2 SCT 733 : (2014) 1 SLJ 205 ."

17. Mr. R Goswami, learned counsel appearing for respondent Nos. 3, 4, 6, 8, 10, 11, 12, 16 & 17 submits that his clients possess the higher qualification of 3 years diploma in Architectural Assistantship and Civil Engineering. It is the view of the experts that the qualification that his clients possess is higher than the qualification prescribed in the advertisement. Having higher qualification cannot be a ground to make the selected candidates ineligible when the higher qualification encompasses the lower qualification prescribed as per advertisement. He also submits that petitioners having participated in the selection knowing fully well that candidates having 3 years diploma in Architectural Assistantship and Civil Engineering had appeared in the selection but did not raise any objection at that point of time, cannot now turn around and question the selection on that ground. They took a calculated chance, but only when they failed, they have instituted the present challenge. Therefore, no relief can be granted to the petitioners, he submits.

18. Mr. Baruah, learned counsel for respondent Nos. 7, 9, 13, 14, 15 and 18 submits that all his clients have the prescribed qualification as mentioned in the advertisement i.e., 2 years Certificate Course in Draftsmanship (Civil) from Govt. recognized institution. Therefore, his clients stand on a different footing from the clients of Mr. Goswami. In spite of their selection and in spite of the clear interim direction of this Court, respondent No. 2 has not provided appointment to his clients which is not at all justified.

19. Submissions made have been considered.

20. As per Service Order, 1991, the Assam Town & Country Planning Subordinate Service (Service) comprises of the following grades and cadres -

"GRADE - I

i) Overseer/Sub-Engineer/Junior Engineer/Computer.

ii) Planning Assistant/Planning Draftsman Grade-I

iii) Research Assistant

GRADE - II

i) Planning Draftsman Grade-II

ii) Draftsman-II

iii) Investigator.

GRADE-III

i) Tracer

ii) Mohurrir

iii) Store Keeper

As per Order 4, the post of Draftsman Grade-II/Planning Draftsman Grade-II shall be filled up by direct recruitment. Order 9 provides that educational qualification of the candidates for direct recruitment shall be as per Schedule-II. As per Schedule-I, the posts of Draftsman Grade-II and Planning Draftsman Grade-II are equivalent having the same scale of pay. In fact, it is treated to be one cadre having total strength of 27 posts, 19 permanent and 8 temporary. Schedule-II deals with academic qualification for direct recruitment. For the post of Draftsman Grade-II/Planning Draftsman Grade-II, qualification prescribed is HSLC passed or Higher Secondary and having passed 2 years Certificate Course in Draftsmanship (Civil) from any recognized institute. For the post of Planning Assistant, qualification prescribed is 3 years diploma course in Civil Engineering from recognized institute.

21. Adverting to the advertisement, it is seen that the educational qualification prescribed for the post of Draftsman/Planning Draftsman-II is that candidate should possess qualification of 2 years Certificate Course in Draftsmanship (Civil) from Govt. recognized institution.

22. Since respondents have raised a preliminary objection as to the locus standi of the petitioners to challenge the selection of the respondents on the ground that they had participated in the selection, but having failed they cannot institute the present challenge, the same needs to be attended to at the outset. There is no dispute to the general proposition that a candidate who appears in a selection without protest about some unfairness or anomaly in the selection process or violation of the Rules cannot, later on, be permitted to challenge the selection after he failed to succeed. But it cannot be said that the aforesaid proposition which has been canvassed at the bar has universal application without any exception. This requires a little elaboration.

23. The proposition that a candidate who had participated in a selection but was unsuccessful would not be entitled to challenge the same subsequently is based on the principle of estoppel by conduct or acquiescence. Ordinarily, a person who participates in the selection process without making any grievance about the

selection process, whether it is not in accordance with the Rules or about some unfairness or anomaly in the selection process, would be estopped from complaining later on that the selection process was not in accordance with Rules or is vitiated by anomalies as he had taken a calculated chance in participating in the selection process and only after he found himself to have not been selected, instituted the challenge.

24. But the question is whether this rule that a candidate who had unsuccessfully participated in a selection would not be entitled to challenge the same is an inflexible or absolute principle of law applicable in all situations without any exception?

25. In *Raj Kumar and Others Vs. Shakti Raj and Others*, AIR 1997 SC 2110 : (1997) 2 JT 688 : (1997) 2 SCALE 228 : (1997) 9 SCC 527 : (1997) SCC(L&S) 1029 : (1997) AIRSCW 1959 : (1997) 3 Supreme 572 , the Apex Court held in the facts of that case that the principle of estoppel by conduct or acquiescence had no application as the Government had committed glaring illegalities in the selection procedure and the entire procedure was found to be illegal.

26. This Court in the case of *Deboranjan Saikia and Others Vs. State of Assam and Others*, (2005) 3 GLR 659 was also confronted with a similar issue where locus of the petitioners, who were successful candidates, to maintain the writ petition was questioned. This Court held that the rule that a candidate who had participated in a selection would not be entitled to challenge the same must be understood not to be an inflexible or absolute principle of law. It was held as under:--

"10. It may be that a candidate who had knowingly participated in a selection cannot turn around at a later stage and challenge the award of marks given to him in the selection held or challenge the composition of the Selection Committee, as the case may be. But this Court cannot understand the law to be one which debars a candidate, who had participated in a selection, from challenging the selection process in all circumstances. Exception to the above principle could be in a situation where there has occurred large scale illegalities in the selection held or in a situation where the selection has been held in a manner which is not prescribed by the statute. The above principles can be carved out by this Court from a later decision of the Apex Court in *Raj Kumar and others* (supra). That apart, the circumstances in which a candidate had appeared in the selection held must also be taken note of by the Court. In the present case the advertisement in question had clearly mentioned that the ad-hoc appointees in service, like the petitioners, must appear in the examination, if they desire that their service should continue. Above all the challenge made in the present writ application being with regard to the selection being held contrary to the provisions of the Rules, I am of the view that the present is not a case where the petitioners are aggrieved by the award of low marks or the petitioners have espoused such individual grievances which should be considered by the Court as debarring them from challenging the selection already held."

27. It is also true that assessment of comparative merit of candidates is ordinarily not interfered with by the Courts because the Courts do not possess such expertise on the subject. In such cases, Courts ordinarily defer to the views of the experts.

28. This is not a case where assessment of comparative merit of the competing candidates is an issue. It is also not a case where the selection criteria or the procedure adopted in the selection has been questioned. Issue raised in this petition centres around the question of eligibility of the candidates. It needs no reiteration and needs no great legal exposition to hold that a candidate who does not have the requisite eligibility as per the recruitment notice or advertisement cannot claim appointment on the strength of his selection based on higher qualification. In such circumstances, debarring the petitioners from challenging the selection of the respondents on the ground that they lack the prescribed eligibility criteria because they had participated in the selection would not be justified. Therefore, the above proposition as rightly held by this Court in *Deboranjan* (Supra) is not to be understood to be an inflexible rule or an absolute bar. Application of the rule would depend upon the fact situation of each case. In the facts of the present case, Court is of the view that the challenge instituted by the petitioners is maintainable, which should be decided on merit.

29. Having answered the preliminary objection as above, the substance of the challenge may now be adverted to. As already noticed, the educational qualification prescribed for the post of Draftsman/Planning Draftsman-II is 2 years Certificate Course in Draftsmanship (Civil) from Govt. recognized institution, which is in tune with the qualification prescribed under the Service Order of 1991.

30. It is a settled proposition that it is for the rule making authority or the appointing authority to prescribe the mode of selection and the minimum qualification for any recruitment. Court can neither prescribe the qualification nor entrench upon the power of the authority concerned so long as the qualification prescribed by the employer is reasonably relevant and has a rational nexus with the functions and duties attached to the post and does not appear to be arbitrary and unreasonable. In the case of *Chandigarh Administration v. Usha Kheterpal Wai & Ors.*, reported in (2011) 9 SCC 645, the Apex Court while approving the above position, further held that in the absence of any rules, either under Article 309 of the Constitution or under the statute, the appointing authority has the power to appoint under its general power of administration and prescribe such eligibility criteria as is considered necessary and reasonable.

31. Question of having higher qualification than the prescribed qualification for a post and thus being eligible to compete is a tricky issue. For some example, for a particular post, the eligibility criteria prescribed is matriculate. If a person is a graduate, he can be regarded to be a candidate with a higher qualification because graduation is admittedly a higher qualification than matriculation and in order to be a graduate, a person has to be a matriculate. Without being a

matriculate, a person cannot be a graduate. Again, to be a post graduate, one must be a graduate. In other words, without being a graduate one cannot be a post graduate. Therefore, in a case where the minimum prescribed qualification for a post is graduation, a post graduate degree holder, which is undoubtedly a higher qualification would be eligible to apply in as much as he also possess the minimum prescribed qualification of graduation. This aspect was gone into by a Division Bench of this Court in Srinivas Reddy Voladri (Supra).

32. The Apex Court has held in Ganapath Singh Gangaram Singh Rajput (Supra) that there is no difficulty in accepting the broad submission that academic issues must be left to be decided by the expert body and Court cannot act as an appellate authority in such matters. However, it has been held that it cannot be said that an expert body's opinion deserves acceptance in all circumstances without any exception.

33. This Court has already noticed in the order dated 15.12.2014 from the stand taken by respondent No. 2 that the 3 years diploma course and the 2 years Certificate Course are not the same despite similarity in the course content in the two courses. The explanation by respondent No. 2 in the subsequent affidavit filed in terms of the Court's order dated 15.12.2014 does not improve the position. As can be seen from Schedule-II to the Service Order of 1991, the 3 years diploma course either in Architectural Assistantship or in Civil Engineering is the prescribed academic qualification for the post of Planning Draftsman Grade-I, which is a higher post in Grade-I as compared to Draftsman Grade-II/Planning Draftsman Grade-II, which is a Grade-II post. Just because the 3 years diploma course in Civil Engineering or Architectural Assistantship is the prescribed qualification for a higher post, it does not ipso facto, mean that the said qualification will also be the eligibility criteria for the Grade-II post of Draftsman/Planning Draftsman Grade-II, which has a separate and specific qualification i.e., 2 years Certificate Course in Draftsmanship (Civil) from any recognized institute.

34. The contention raised by the State and the respondents can also be looked at from another angle. As noticed in the case of Srinivas Reddy Voladri (Supra), it is not the case of the respondents that to obtain the 3 years diploma course either in Architectural Assistantship or in Civil Engineering, one has to first obtain a 2 years Certificate Course in Draftsmanship (Civil) from any recognized institute. If that be so, a candidate having 3 years diploma in Architectural Assistantship or in Civil Engineering cannot claim to have eligibility of 2 years Certificate Course in Draftsmanship (Civil) from any recognized institute which is the eligibility requirement for the post of Draftsman/Planning Draftsman Grade-II.

35. In the light of the above, Court is of the view that the interim direction issued by this Court on 19.02.2014 is required to be made absolute. Accordingly, it is hereby directed that in terms of the advertisement dated 05.09.2013, respondent No. 2 shall provide appointment to only those candidates who possess the 2 years Certificate Course in Draftsmanship (Civil) from Govt. recognized institution. For the aforesaid purpose, the select list dated 12.02.2014

shall be recast on the basis of the selection record confining the selection to those candidates having the educational qualification as prescribed in the advertisement dated 05.09.2013. This exercise shall be done within a period of two (2) months from the date of receipt of a certified copy of this order. If any of the advertised vacancies remain vacant even after conclusion of the aforementioned exercise, respondent No. 2 shall be at liberty to advertise the same afresh.

36. Writ petition is accordingly allowed, but without any order as to costs.