

ORDER SHEET
IN THE HIGH COURT OF SINDH HYDERABAD
C.P.No. D- 762 of 2023

Date of hearing	Order with signature of Judge.
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- 1.For orders on office objection
- 3.For orders on M.A No.3792/23
- 4.For orders on M.A No.3793/23.
- 5.For hearing of main case

17-05-2023

Mr. Zain-ul-Abidin Sahito, Advocate for the Petitioners.

Through this petition, the petitioners have impugned rejection letters along with orders passed subsequently on their appeals by the Sindh Public Service Commission with a prayer that their qualification of an MBA degree be declared equivalent to or a qualification for appointment to the post of Lecturers in the subject of Commerce. Admittedly, the advertisement for such post required that the applicant should be a Masters in Commerce or M. Com which the petitioners are not. On 10.5.2023, by placing reliance on a judgment passed by the Hon'ble Supreme Court in the case of *Waqas Aslam & others v. Lahore Electric Supply Company Limited & others (2023 SCMR 549)* we had confronted the Petitioners Counsel as to how in view of such enunciation of law, the relief sought can be granted by this Court. In that case has been held that inducting candidates possessing a higher qualification than the advertised criteria are not eligible for such post and cannot be accommodated by the Courts.

Today, counsel has been confronted with the above order and though he has made all his best possible efforts to distinguish the aforesaid judgment in the case of *Waqas Aslam supra* passed by the Supreme Court; however, we are unable to persuade ourselves to agree with his contention and submissions so made. In our considered view his contention is misconceived and does not depicts the correct appreciation of law enunciated by the Supreme Court in the above judgment. Para No.6 of the above judgment is relevant for the present purposes and reads as under:

6. It is also important to note that in the absence of any such stipulation in the advertisement or the recruitment policy of the respondent company, it is not possible for the Court to draw an inference that a higher qualification presupposes the acquisition of a lower qualification or that a candidate having a higher qualification is

better suited for the post as opposed to a candidate possessing the requisite qualification that has been expressly prescribed in the advertisement according to the nature of the post and the requirement of the employer⁷. As stated above, it is not for the Court to examine the qualification and eligibility in a recruitment process. The Court, at best, can look into the legality of the recruitment process but cannot delve deeper into the design and need of the employing institution or second guess their selection criteria and job requirement. It is also not open to the Courts to embark upon comparing various degrees held by the applicants with the advertised qualifications and carry out the function of an employer by carrying out the comparison of the said qualifications. The power of judicial review by the Courts cannot be extended to determine equivalence or comparison of academic qualifications for a post or assume the role of a human resource department of an employing institution. It is a specific expert area and can be best resolved by the institution itself according to the suitability and requirements of a certain post as designed and desired by the employer. It is an area for which the Courts are not best suited⁸. Therefore, there is no force in the contention that since the petitioners possess a higher qualification than what has been advertised, they are to be necessarily considered eligible for the post.

From perusal of the above observations of the Supreme Court, it is clear that we in our constitutional jurisdiction, cannot review or even determine any equivalence or comparison of an academic qualification for a post; or assume the role of a Human Resource Department of an employing institution. In the present case, the petitioner is not qualified as per the advertisement issued by the respondents; but claims that a degree in Master of Business Administration (MBA) be declared equivalent to or a substitute for a degree in Masters in Commerce (M. Com). This we cannot do as such exercise on the part of a Court has not been appreciated by the Supreme Court in the aforesaid judgment.

Accordingly, the petition appears to be misconceived and not maintainable; hence was dismissed along with listed applications by means of a short order in the earlier part of the day and these are the reasons thereof.

JUDGE

JUDGE

Hafiz Fahad