

Bombay High Court

Nihal Anandrao Tandekar vs The Nuclear Power Corporation Of ... on 30 May, 2023

Bench: G. S. Kulkarni

2023:BHC-OS:4300-DB

WPL14319 of 2023.doc

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) No. 14319 OF 2023

Mr. Nihal Anandrao Tandekar

...Petitioner

Vs.

The Nuclear Power Corporation
of India and Ors.

...Respondents

Ms. Priya Rombade i/by Mr. Bharat Joshi, for the Petitioner.

Mr. Rakesh Singh a/w. Ms. Heena Shaikh i/b. M/s. M.V. Kini
and Co. for Respondent No.1.

Mr. Rui A. Rodrigues a/w. Mr. A.A. Garge for Respondent
No.2-UOI.

Mr. S. Vena Gopal, DGM, Legal, Ms. Sangeeta Patade, DGM,
H.R. & Mr. Praveen Kumar (D.M. Legal), Officers of
Respondent No.1 present in Court.

CORAM:- R.D. DHANUKA, CJ AND
G.S. KULKARNI, J.

DATE :- 30th May, 2023 P. C.:

1. We have heard learned counsel for the parties. The Petitioner intends to apply for the post of Deputy Manager (C & MM) under the advertisement dated 12th May, 2023 issued by Respondent No.1. The Petitioner contends that the Petitioner is qualified as per the educational qualifications, experience and other criteria as set out in the said advertisement, which is annexed at page 63 of the Petition. In so far as the eligibility Tikam page 1 of 6 WPL14319 of 2023.doc of the Petitioner is concerned, the relevant clause in regard to educational qualification and experience is Clause No.3 which reads thus:-

"

Seri Name of the Educational Qualifications, Experience & al Post other criteria No.

3. Deputy
Manager
(C&MM)

a) Graduation in Engineering in any of the
branches; plus
b) Full time MBA or equivalent (preferably in

Materials Management/Inventory Control) with not less than 60% marks from a recognized University/AICTE approved Institute.

Note:

Engineering Graduates with Post Graduate qualification as above will be considered for grant of advance increments by Selection Committee, subject to a maximum of 5 increments, based on performance, at the recruitment stage.

Thus the qualification requirement mentioned in the advertisement issued by Respondent No.1 is Graduation in Engineering in any of the branches and full time MBA or equivalent (preferably in Materials Management/Inventory Control) with not less than 60% marks from a recognized University/AICTE approved Institute.

2. The Petitioner has contended that he has obtained a Tikam page 2 of 6 WPL14319 of 2023.doc Graduation Degree in Engineering and a MBA Degree in Materials Management from Madhya Pradesh Bhoj (Open) University, Bhopal, which is under the Distance Education as awarded by the said University as permitted by the University Grants Commission (for short "the UGC"). The documents of award of such degree are annexed at Exhibit 'B' to the Petition.

3. The case of the Petitioner is that, he had applied under the advertisement in question, however the Petitioner's application was not accepted by the respondent no.1 under the online process, for the reason that, the Respondents would not accept the Petitioner's qualification of the MBA Degree as obtained by him from the Madhya Pradesh Bhoj (Open) University, Bhopal, being a degree awarded through Distance Education.

4. The case of the Petitioner is that there is no distinction between Full-time degree course and the degree awarded for programmes conducted by the Open and Distance Learning Institutions (ODL). In support of this contention, learned counsel for the Petitioner invites our attention to the notification dated 14th October, 2013 issued by the UGC to the Tikam page 3 of 6 WPL14319 of 2023.doc Registrar/ Director of all the Indian Universities (Deemed, State, Central Universities/Institutions of National Importance), by which the UGC has notified that the degrees awarded by the Open and Distance Learning (ODL) Institutions are at par with Conventional Universities/Institutions. It is seen from the said notification that in fact, such position was recognized by the UGC in its circular dated 05th May, 2004 of which a reference is made in paragraph 2 of the said notification. The relevant extract of the said notification reads thus:-

"2. A circular was earlier issued vide UGC letter F1 No- 52/2000 (CPP-II) dated May 05, 2004 (copy enclosed) mentioning that Degrees/Diplomas/Certificates/ awarded by the Open Universities in conformity with the UGC notification of degrees be treated as equivalent to corresponding awards of the traditional Universities in the country.

...

6. Accordingly, the Degrees/Diplomas/Certificates awarded for programmes conducted by the ODL institutions, recognized by DEC (erstwhile) and UGC, in conformity with UGC Notification on specification of Degrees should be treated as equivalent to the corresponding awards of the Degree/Diploma/ Certificate of the traditional Universities/institutions in the country."

5. On the aforesaid backdrop, we are of the clear opinion that it is the UGC which is an expert body which has the authority to determine the equivalence of degrees. The conventional degrees awarded by universities conducting the Tikam page 4 of 6 WPL14319 of 2023.doc full-time courses are now treated to be at par with the degrees being conferred by Open Universities under the Distance Education as notified by the UGC. Mr. Singh, learned counsel for respondent no.1 is not in a position to dispute such contention as urged by the petitioner relying on the said notification issued by the UGC.

6. In the aforesaid circumstances, Mr. Singh, on instructions of the concerned officers who are present in the Court, fairly states that respondent no.1 shall permit the petitioner to submit his application for the post in question under the advertisement dated 12 May, 2023, so as to permit the petitioner to participate in the selection process, however, such participation of the petitioner shall be considered on its own merits. We accept the statement made by Mr. Singh on behalf of respondent no.1.

7. In view of the fair stand taken on behalf of respondent no.1, further adjudication of the petition is not called for. We accordingly, dispose of the petition accepting the statement as made on behalf of respondent no.1. Respondent no.1 shall permit the petitioner to complete the necessary formalities by Tikam page 5 of 6 WPL14319 of 2023.doc 02nd June, 2023.

8. We clarify that we have not examined any other contentions and participation of the petitioner in the selection process shall be considered by respondent no.1 on its own merits.

9. The petition is disposed of in the above terms. No costs.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)

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