

IN THE HIGH COURT OF JHARKHAND AT RANCHI
L.P.A. No. 827 of 2019
With
I.A No. 11419 of 2019

Sanjay Kumar, aged about 43 years, S/o Purushottam Yadav,
R/o Village – Aaambagan, Mihijam, Jamtara, PO-Mihijam, PS-
Mihijam, District-Jamtara (Jharkhand), Pin Code-815354.

..... **Appellant**

Versus

1. The State of Jharkhand through the Chief Secretary,
Government of Jharkhand, at Project Building, Ranchi, PO-
Dhurwa, PS-Jagarnathpur, District-Ranchi.
2. Principal Secretary, Department of Personnel & Training
and Rajbhasa, at Project Building, Ranchi, PO-Dhurwa, PS-
Jagarnathpur, District-Ranchi.
3. Principal Secretary, Human Resource and Development, at
Project Building, Ranchi, PO-Dhurwa, PS-Jagarnathpur,
District-Ranchi
4. Chairman, Jharkhand Staff Selection Commission, situated
at F-49/50, Sector-III, Dhurwa, PO-Dhurwa, PS-
Jagarnathpur, District – Ranchi, Pin – 834004.
5. The Controller of Examination, Jharkhand Staff Selection
Commission, situated at F-49/50, Sector-III, Dhurwa, PO-
Dhurwa, PS-Jagarnathpur, District – Ranchi, Pin – 834004
6. Directorate of Secondary Education, MDI Building,
Jharkhand Mantralaya, at PO-Dhurwa, PS-Jagarnathpur,
District – Ranchi (Jharkhand), Pin Code-834004

..... **Respondents**

CORAM : HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE AMBUJ NATH

For the Appellant : Mr. R.N.Sahay, Sr. Advocate
M/s. Yashvardhan, Akriti Shree,
Kirtivardhan, Ritesh Singh, Advocates
For the Respondents: Mr. Nipun Bakshi, Advocate

Per Sujit Narayan Prasad, J.

Order No.04/ Dated 08.10.2021

I.A No. 11419 of 2019

This interlocutory application has been preferred
under Section 5 of the Limitation Act for condoning the delay
of 04 days in preferring this Letters Patent Appeal.

Heard parties.

Having regard to the averments made in the application and submissions made on behalf of the appellant, we are of the view that the appellant was prevented from sufficient cause in filing the appeal within the period of limitation. As such, the delay of 04 days in preferring the appeal is hereby condoned.

I.A. No. 11419 of 2019 stands allowed.

L.P.A. No. 827 of 2019

Heard learned senior counsel for the appellant and the learned counsel for the respondents.

The instant intra-court appeal has been filed under clause 10 of the Letters Patent against the order/judgment dated 20.09.2019 passed in W.P. (S) No. 2005 of 2019 and analogous cases, whereby and whereunder, the writ petitions have been dismissed holding the writ petitioner ineligible for the concerned post and further it has been held that the candidates who have obtained degree exclusively in the subject "HISTORY" as per the advertisement, are entitled for consideration for appointment to the aforesaid posts, subject to fulfillment of other criteria and requisite position in the merit list and if there is no other legal impediments.

The brief facts of the case, as per the pleadings made in the writ petitions, which are required to be enumerated herein for proper adjudication of the *lis*, are that the Jharkhand Staff Selection Commission, (hereinafter referred to as the 'JSSC'), has come out with an advertisement

being Advertisement No. 21/2016, known as 'Graduate Trained Teacher Competitive Examination-2016', inviting on-line applications from eligible candidates for filling up the posts of 'Graduate Trained Teacher' for different subjects, including the subject History. Pursuant thereto, the writ petitioner-appellant applied for the said post and participated in the selection process. However, on the date of verification of the testimonials, it was found that the writ petitioner-appellant has submitted Graduate degree in **Ancient/Medieval/Modern/Ancient History, Culture & Archaeology etc.** and on being asked by the JSSC-the examining body, the writ petitioner-appellant failed to submit the certificate of 'degree' in Graduation/'Master of Arts' in Post Graduation with the subject 'History' in terms of the advertisement, as such show cause notice was issued to him.

Being aggrieved thereof, the writ petitioner-appellant invoked the writ jurisdiction of this Court by filing writ petition, which was heard and has been dismissed by the learned Single Judge by a common order, against which, the present intra-court appeal has been filed.

The case of the writ petitioner-appellant is that he possess the educational qualification, as stipulated in the advertisement, with the subject Ancient/Medieval/Modern/Ancient History, Culture & Archaeology etc., as such he is eligible for consideration for appointment on the said post. Further case of the writ petitioner-appellant is that even

though he has been allowed to participate in the selection process and he has obtained more marks than the last selected candidate, who has been taken under consideration zone for selection, his candidature has been rejected.

Mr. R.N. Sahay, learned senior counsel appearing for the writ petitioner-appellant has submitted that the learned Single Judge while rejecting the aforesaid claim of the writ petitioner-appellant has committed gross error in not considering the certificate issued by the Allahabad University through its Department of Medieval and Modern History, which conferred degree in favour of the writ petitioner-appellant, in different wings/streams of History, it cannot be construed that the appellant is not having the Graduate degree with the subject "History". Learned senior counsel appearing for the writ petitioner-appellant, taking reliance upon the certificate of National Eligibility Test (NET) issued by the University Grants Commission to some of the writ petitioners-appellants in other analogous cases making them eligible to teach the subject "History", has submitted that U.G.C. has treated their degree in its entirety as the subject 'History'. His further contention is that different Universities of the different States are treating the degree issued in favour of the writ petitioner-appellant valid even though not of History rather some of the streams of the History, he is being treated as holder of the degree in graduation/post graduation with the subject History.

Learned counsel appearing for the State by adopting the stand taken by the JSSC and in furtherance of his argument has submitted that in absence of any equivalence clause for educational qualification, the candidature of the writ petitioner-appellant cannot be considered and if it will be considered it will amount to giving relaxation to such candidate, which is not permissible.

This Court, having heard learned counsel for the parties and on appreciation of the rival submissions of the parties, deem it fit and proper first go through the advertisements, basing upon which the entire selection process was initiated.

The Department of Personnel, Administrative Reforms and Rajbhasha, Government of Jharkhand vide letter no.11/K.Cha.Aa.-2-08/2016 ka-8280 (Anu) dated 23.09.2016 and letter No. 9441/ANU dated 04.11.2016 and letter No. 1089 dated 02.02.2017 forwarded the requisition before the J.S.S.C. for starting selection process for appointment to the post of Combined Graduate Trained Teachers in different subjects in different districts of the State. Pursuant thereto, the JSSC invited on-line applications from the eligible candidates by publishing Advertisement No. 21/2016, known as 'Combined Graduate Trained Teachers Competitive Exam - 2016', in which, pay-scale, eligibility criteria etc. have been mentioned.

It is evident from Clause 4 of the advertisement No. 21/2016, which mentions posts, pay-scale and minimum

educational qualifications, stipulating therein the minimum educational qualification for the post of Trained Graduate Teacher (History/Political Science) was Graduation with the subject History and Political Science, with 45% marks in any of the subjects and B.ed or equivalent degree from the recognized institution.

It is admitted case of the writ petitioner-appellant that he is not possessing the degree of "History" in its entirety, as per the condition stipulated in the advertisements. In the aforesaid backdrop, the moot question that falls for consideration before the learned Single Judge was as to whether 'History' is equivalent to Ancient History, Medieval History and other branches of History for the purposes of appointment to the post of Trained Graduate Teachers?

The learned Single Judge, after considering the fact that the degree at graduate/post graduate level, if obtained in some of the streams of History and not in History its entirety, cannot be said to be degree of 'History', as required in the advertisement, has declined to grant positive direction for consideration of their candidature for appointment to the posts in question.

This Court, while considering the aforesaid findings of the learned Single Judge, deem it fit and proper to examine the following questions:

- (i). Whether the candidates can be allowed to make departure from advertisement, so far educational qualification is concerned?

- (ii) Can the Court of law make any relaxation in the terms and conditions of the advertisement?
- (iii). Whether the writ petitioner-appellant without assailing the advertisement can claim parity of his degree with the subject History, as also the eligibility criteria, as has been fixed by the NCTE?

Since all these questions are co-related, hence it is being taken up simultaneously.

It is settled position of law that if an advertisement is issued on the requisition made by the State authorities to the examining body, all the conditions as stipulated in the advertisement is required to be followed by the examining body.

It is also settled position of law that the Court of law cannot grant any relaxation in the conditions stipulated in the advertisement, as has been held by Hon'ble Apex Court in the case of ***Bedanga Talukdar Vs. Saifudaullah Khan & Ors*** reported in ***AIR 2012 SC 1803***. The relevant paragraphs, paragraph nos. 28 and 29 of the said judgment, are quoted hereunder as:

"28.We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously

maintained. There can not be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant Statutory Rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the Rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of quality contained in Articles 14 and 16 of the Constitution of India.

29. A perusal of the advertisement in this case will clearly show that there was no power of relaxation. In our opinion, the High Court committed an error in directing that the condition with regard to the submission of the disability certificate either along with the application form or before appearing in the preliminary examination could be relaxed in the case of respondent No. 1. Such a course would not be permissible as it would violate the mandate of Articles 14 and 16 of the Constitution of India."

It is further settled position of law, as has been held by Hon'ble Apex Court in the case of ***Bihar Public Service Commission & Ors vs. Kamini and Ors*** reported in ***(2007) 5 SCC 519***, wherein the issue fell for consideration before the learned Single Judge of the Hon'ble Patna High Court pertaining to consideration of candidate, who have participated in the process of selection in an advertisement, which contains the minimum qualification of B.Sc. Zoology with two years' diploma in Fisheries Science from Central

Institute of Fisheries Education, Mumbai or a graduate degree in Fisheries Science (BFSC) from a recognized university of M.Sc. (Inland Fisheries Administration and Management) with Zoology from the Central Institute of Fisheries Education, Mumbai and when the candidature of the candidate in the said case not been considered due to lack of educational eligibility criteria, the matter went before the Hon'ble Patna High Court wherein the learned Single Judge has dismissed the writ petition but the same has been reversed by the Division Bench in Letters Patent Appeal, against which, the Bihar Public Service Commission has approached to the Hon'ble Apex Court wherein their Lordship at paragraph 5 has been pleased to hold that if the eligibility educational criteria was BSc, Zoology, such person must have passed B.Sc. Zoology as principal/main subject and not as a subsidiary or optional subject.

It has further been held that the Court of law has no jurisdiction to interfere and encroach upon the views expressed by the expert committee. The expert committee in the aforesaid case has opined that the student would be called graduate in the subject if he/she has Honours in that subject at graduate level, meaning thereby it must be the principal subject. The aforesaid opinion of the expert committee was accepted by the Hon'ble Apex Court.

For ready reference, paragraph nos. 5, 7 and 8 of the aforesaid judgment are quoted hereunder as:

"5. The learned counsel for the appellant submitted that the Division Bench of the High Court was wholly wrong in allowing the appeal and in setting aside the order passed by the learned Single Judge and in ignoring the report submitted by the Expert Committee. He also submitted that even otherwise, the action of the Commission could not be said to be illegal or contrary to law. When the requisite educational qualification was BSc, Zoology, such person must have passed BSc with Zoology as principal/main subject and not as a subsidiary or optional subject. Admittedly, the first respondent had passed BSc with Chemistry as principal subject and Zoology as optional/subsidiary subject. She, therefore, could not be held qualified and the action of the Commission was in consonance with law and was legal and proper. It was also submitted that after the representation was received from the first respondent, the Commission constituted an Expert Committee for considering the grievance of the first respondent and even the Expert Committee opined that in its opinion i.e. in the opinion of the Committee, a student would be called graduate in the subject if he/she has Honours in that subject at the graduate level. If the subject is subsidiary (or side subject), he/she could not be called a graduate in that subject. It was because an Honours student at the graduate level studies eight papers in that subject whereas he/she studies only two papers in subsidiary subject. In accordance with the report, the action was taken which was proper. The counsel also submitted that the learned Single Judge was wholly right in upholding the contention of the Commission that the first respondent could not be said to be BSc Honours in Zoology and dismissed the petition. The Division Bench was in error in setting aside the said order which deserves interference.

7. Having heard learned counsel for the parties, in our opinion, the appeal deserves to be allowed. The advertisement is explicitly clear and states that the candidate must be Honours in BSc, Zoology. It is not in

dispute that the first respondent has obtained BSc degree with first class but her main subject was Chemistry of eight papers of 800 marks and in addition to Chemistry, she had two papers of Zoology and Botany. In pursuance of the advertisement, which was clear, the first respondent was not eligible for the appointment to the post of District Fisheries Officer. In spite of that, she applied for the said post. True it is that initially a letter was issued by the 14 Commission on 17-10-2002 calling upon her to appear before the Commission for interview. It was, however, a mistake on the part of the Commission. As soon as the appellant Commission realised that the first respondent was not having requisite qualifications for the post and was not eligible, her candidature was rejected. When a representation was made by the first respondent that cancellation of her candidature was not proper and that the decision should be reconsidered by the Commission, the Commission thought it fit to look into her grievance and an Expert Committee was appointed. The Expert Committee considered the question and submitted a report on 24-11-2002, inter alia, stating that in its "considered opinion", a student would be called a graduate in the subject if he/she has Honours in the subject at the graduate level, meaning thereby that it must be the principal subject. In our opinion, such a decision could not be said to be contrary to law.

8. Again, it is well settled that in the field of education, a court of law cannot act as an expert. Normally, therefore, whether or not a student/candidate possesses requisite qualifications, should better be left to educational institutions (vide *University of Mysore v. C.D. Govinda Rao*¹). This is particularly so when it is supported by an Expert Committee. The Expert Committee considered the matter and observed that a person can be said to be Honours in the subject if at the graduate level, he/she studies such subject as the principal subject having eight papers and not a subsidiary, optional or side subject having two papers. Such a decision, in our judgment, cannot be termed

arbitrary or otherwise objectionable. The learned Single Judge, in our opinion, was, therefore, right in dismissing the petition relying upon the report of the Committee and in upholding the objection of the Commission. The Division Bench was in error in ignoring the well-considered report of the Expert Committee and in setting aside the decision of the learned Single Judge. The Division Bench, while allowing the appeal, observed that the "litmus test" was the admission granted to the first respondent by the Central Institute of Fisheries Education, Mumbai. According to the Division Bench, if the first respondent did not possess Bachelor of Science degree with Zoology, the Institute would not have admitted her to the said course. The Division Bench observed that not only the first respondent was admitted to the said course, she had passed it with "flying colours". In our opinion, the Division Bench was not right in 15 applying "litmus test" of admission of the first respondent by the Central Institute of Fisheries Education, Mumbai. The controversy before the Court was whether the first respondent was eligible for the post of District Fisheries Officer, Class II. The correct test, therefore, was not admission by the Mumbai Institution. If the requirement was of Honours in BSc with Zoology and if the first respondent had cleared BSc Honours with Chemistry, it could not be said that she was eligible to the post having requisite educational qualifications. By not treating her eligible, therefore, the Commission had not committed any illegality."

This Court has proceeded to examine the issues framed herein above. Admitted position herein is that the on-line applications were invited from the eligible candidates for filling up the posts of Trained Graduate Teacher in different subjects, including 'History', which is the subject matter of the present intra-court appeal.

It is also admitted fact that the appellant has shown himself having obtained graduate in 'History' at the time of filling up on-line application form. On that pretext, he has been allowed to appear in the assessment/performance test, as per the process of selection, as stipulated in the advertisement, in which, he has been found to be successful and in consequence thereof, he has been directed to appear for verification of testimonials, as per the conditions stipulated in the advertisement. The examining body, at the time of screening of the application form vis-a-vis testimonials submitted by one or the other candidates has found discrepancies in giving declaration with respect to having graduate in the subject 'History', as per the advertisement.

On such discrepancies, the examining body issued show cause notice to the writ petitioner-appellant in order to provide him opportunity of hearing and opportunity to satisfy the examining body, whereupon the writ petitioner-appellant appeared and tried to justify the certificate obtained by him from different Universities in different streams of 'History' like that of Ancient/Medieval/Modern/Ancient History, Culture & Archaeology etc., but failed to produce any degree in the subject 'History' in its entirety, as per the advertisement, therefore, his candidature has been rejected.

Examining body while rejecting the candidature of the candidate has constituted an expert committee in order to clarify the issue, comprising of Chairman, Jharkhand

Academic Council; Regional Director, KDS; R.D.D.E, South Chhotanagpur; Secretary, Jharkhand Academic Council; Deputy Director, Secondary Education; Additional Secretary, Secondary Education; DEO, Ranchi and Senior Advocate of the High Court, who after making various correspondences with the various Universities in the State of Jharkhand came to the conclusion that Ancient History, Medieval and Modern History are the branches of the subject History and candidates having degree in any of the branches only, not the subject History in its entirety, cannot be made eligible for selection in terms of the advertisement.

It is also pertinent to mention herein with respect to aforesaid argument about the constitution of committee but it is the case of the writ petitioner-appellant that the constitution of committee has never been assailed before the learned Single Judge and, therefore, the fact pertaining to propriety of constitution of committee cannot be allowed to be agitated at the appellate stage.

It is also admitted position that no such clause about 'equivalence' has been provided in the eligibility criteria of the advertisements, so far degree of graduation is concerned.

It is also admitted position that if the condition has been stipulated in the advertisement, it cannot be deviated in any way and if any deviation would be made it amounts to relaxation, which is not permissible in law, as per the law laid down in the case of ***Bihar Public Service Commission & Ors***

Vs. Kamini Devi (supra), wherein it has been held that if any decree is required in a particular subject at Graduate Level, the degree must be in the said subject by way of principal subject and not as a subsidiary subject.

Relying upon the aforesaid proposition of law, we are of the view that since in the advertisement requirement has been made of having degree at graduate level with History and Political Science, so far appointment, as Trained Graduate Teacher is concerned, which does mean that a candidate is held to be eligible for consideration in the process of selection only if one or the other candidate is possessing degree of History at graduate level as a principal subject and not as subsidiary subject.

In view of such proposition of law, as has been held by Hon'ble Apex Court in the case of ***Bihar Public Service Commission & Ors Vs. Kamini Devi*** (supra), wherein the Hon'ble Apex Court by accepting the opinion of the expert committee has opined that candidate would be called graduate in the subject if he/she has Honours in the subject at graduate level, therefore, the finding of the learned Single Judge by holding the eligibility of such candidate to be considered for selection in the History subject would be considered of such candidate, who are having graduation in History subject in its entirety.

The issue has been raised by the learned senior counsel for the writ petitioner-appellant that the condition

stipulated in the advertisement about making no equivalence clause is not proper but the said question cannot be allowed to be agitated at this stage since admittedly herein the writ petitioner-appellant has participated in the selection process by seeing the conditions, stipulated in the advertisement, by naked eyes and once found to be not eligible he cannot be allowed to turn around and question the advertisement, as has been held by Hon'ble Apex Court in the case of **Dr. G. Sarana Vs. University of Lucknow & Ors.** reported in **(1976) 3 SCC 585**. For ready reference, paragraph 15 of the said judgment is quoted hereunder as:

"15. We do not, however, consider it necessary in the present case to go into the question of the reasonableness of bias or real likelihood of bias as despite the fact that the appellant knew all the relevant facts, he did not before appearing for the interview or at the time of the interview raise even his little finger against the constitution of the Selection Committee. He seems to have voluntarily appeared before the Committee and taken a chance of having a favourable recommendation from it. Having done so, it is not now open to him to turn round and question the Constitution of the Committee. This view gains strength from a decision of this court in Manak Lal's case where in more or less similar circumstances, it was held that the failure of the appellant to take the identical plea at the earlier stage of the proceedings created an effective bar of waiver against him. The following observations made therein are worth quoting:

It seems clear that the appellant wanted to take a chance to secure a favourable report from the tribunal which was constituted and when he found that he was confronted with unfavourable report, he adopted the device of raising the present technical

point."

Likewise, the Hon'ble Apex Court in the case of ***Omprakash Shukla Vs. Akhilesh Kumar Shukla and Ors.*** reported in ***(1986) (supp) SCC 285***, has held that if a candidate had appeared in the examination without protest, he cannot invoke the jurisdiction of the High Court under Article 226 realizing that he would not succeed in the examination.

Further reference in this regard is made to the judgment rendered by the Hon'ble Supreme Court in the case of ***Marripati Nagaraja Vs. Govt of Andhra Pradesh and Ors.*** reported in ***(2007) 11 SCC 522*** wherein it has been held that if the appellant had appeared at the examination without any demur, they did not question the validity of fixing of the said date before the appropriate authority, therefore, they were estopped and precluded from questioning the selection process.

In the judgment rendered by the Apex Court in the case of ***Vijendra Kumar Verma vs. Public Service Commission, Uttarakhand and Ors.*** reported in ***(2011) 1 SCC 150*** at paragraph 24, it has been held that "...All the candidates knew the requirements of the selection process and were fully aware that must possess the basis knowledge of computer operation meaning thereby Microsoft Operating System and Microsoft Office Operation. Knowing the said criteria, the appellants also appeared in the interview, faced

the questions from the expert of computer application and has taken a chance and opportunity therein without any protest at any stage and now they cannot turn back to state that the aforesaid procedure adopted was wrong and without jurisdiction."

This Court, in view of the settled position of law, as has been decided in the judgments referred herein above, is of the view that at this stage, the writ petitioner-appellant cannot be allowed to question the terms of the advertisement and further there is no question to allow the writ petitioner-appellant to raise this issue since this was not raised by the writ petitioner-appellant before the learned Single Judge.

Mr. Sahay, learned senior counsel for the petitioner has argued at length by making reference of the earlier advertisements wherein in similar circumstances for the similar posts, even though the candidates having no degree in History in its entirety rather degree in different streams of the particular subject, has been allowed to appear and finally they have been selected, therefore, according to him taking a different view pursuant to the present advertisements is not justified.

This Court, after appreciation of argument advanced by learned senior counsel for the writ petitioner-appellant, is of the view that if any illegality has been committed, the same cannot be allowed to be continued.

It is not in dispute that Article 14 of the

Constitution of India always envisages the positive equality and there is no concept of negative equality to be followed, meaning thereby, if any decision has been taken by the authority contrary to the rules, regulations and conditions stipulated in the advertisement or the notice inviting application, the others cannot derive any benefit on the basis of the said decision since equality not to be claimed being a negative right.

Reference in this regard may be made to the judgment rendered in the case of ***State of Bihar & Ors. vs. Kameshwar Prasad Singh & Anr.***, reported in ***AIR 2000 SC 2306*** wherein at paragraph-30 it has been laid down hereunder as :-

“The concept of equality as envisaged under Art. 14 of the Constitution is a positive concept which cannot be enforced in a negative manner. When any authority is shown to have committed any illegality or irregularity in favour of any individual or group of individuals other cannot claim the same illegality or irregularity on ground of denial thereof to them. Similarly wrong judgment passed in favour of one individual does not entitle others to claim similar benefits.”

Reference in this regard may also be made to the judgment rendered in the case of ***Basawaraj & Anr. Vs. Special Land Acquisition Officer*** reported in ***(2013) 14 SCC 81***, in particular paragraph 8, which reads hereunder as:

"8. It is a settled legal proposition that Article 14 of the Constitution is not meant to perpetuate illegality or fraud, even by extending the wrong decisions made in other cases. The said provision does not envisage

negative equality but has only a positive aspect. Thus, if some other similarly situated persons have been granted some relief/benefit inadvertently or by mistake, such an order does not confer any legal right on others to get the same relief as well. If a wrong is committed in an earlier case, it cannot be perpetuated. Equality is a trite, which cannot be claimed in illegality and therefore, cannot be enforced by a citizen or court in a negative manner. If an illegality and irregularity has been committed in favour of an individual or a group of individuals or a wrong order has been passed by a judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing a similarly wrong order. A wrong order/decision in favour of any particular party does not entitle any other party to claim benefits on the basis of the wrong decision. Even otherwise, Article 14 cannot be stretched too far for otherwise it would make functioning of administration impossible."

Likewise, the Hon'ble Apex Court in the case of ***Kulwinder Pal Singh & Anr Vs. State of Punjab & Ors*** reported in **(2016) 6 SCC 532** at paragraph 16 held hereunder as:

"16. The learned counsel for the appellants contended that when the other candidates were appointed in the post against dereserved category, the same benefit should also be extended to the appellants. Article 14 of the Constitution of India is not to perpetuate illegality and it does not envisage negative equalities. In *State of U.P. v. Rajkumar Sharma* it was held as under: "

15. Even if in some cases appointments have been made by mistake or wrongly, that does not confer any right on another person. Article 14 of the Constitution does not envisage negative equality, and

if the State committed the mistake it cannot be forced to perpetuate the same mistake."

Learned senior counsel for the writ petitioner-appellant has laid much emphasis on the judgment rendered in the case of ***Parvaiz Ahmad Parry vs State Of Jammu and Kashmir and Ors*** reported in ***(2015) 17 SCC 709***, but, we after giving our thoughtful consideration to the said judgment are of the view that the said issue is totally on different facts, hence is not applicable in view of the factual difference to the effect that in the said case, the minimum qualification prescribed for applying to the post of Jammu and Kashmir Forest Service Range Officers Grade I was "BSc (Forestry) or equivalent from any university recognised by ICAR". The Indian Council of Forest Research & Education (in short "ICFRE") issued Notification dated 15.01.1999 clarifying that the syllabus of State Forest Service (in short 'SFS') Colleges was very much akin to that of Indira Gandhi National Forest Academy (in Short "IGNFA"), therefore, considering the high standard of training and education in the SFS Colleges, the ICFRE resolved that "SFS College Diploma to be treated as equivalent to M.Sc. (Forestry)" and considering the equivalent clause, as provided in the advertisement, judgment has been rendered by Hon'ble Apex Court by directing for consideration of candidature of such candidate, who have got degree in M. Sc. (Forestry), but here in this case there is no equivalence clause, as would be evident from the advertisements and

further, there is no declaration by any competent body treating different streams of History i.e. Ancient, Medieval and Modern as a degree in History in its entirety.

This Court, after giving thoughtful consideration of the facts, as discussed herein above and after going across the findings recorded by learned Single Judge and after considering the entire aspect of the matter vis-à-vis legal position and considering the terms of the advertisement, is of the view that the learned Single Judge has rightly come to the finding about decision taken by the authority in not considering the candidature of the writ petitioner-appellant since he is not having degree at graduation level with the subject "History" and as such has directed the authority to exclusively consider the candidature of such candidates, who have obtained degree exclusively in the subject History as per the advertisement.

We, therefore, are of the view that the said judgment cannot be faulted with.

In view thereof, the appeal fail and is accordingly dismissed.

(Sujit Narayan Prasad, J.)

(Ambuj Nath, J.)