REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4846 OF 2021
(Arising out of Petition for Special Leave to Appeal (Civil) No.4604 of 2020)

PRAVEEN KUMAR C.P. ...APPELLANT(S)

VERSUS

KERALA PUBLIC SERVICE COMMISSION COMMISSION & ORS. ...RESPONDENT(S)

WITH
CIVIL APPEAL NO.4847 OF 2021
(Arising out of Petition for Special Leave to Appeal (Civil) No.3927 of 2021)

JUDGMENT

ANIRUDDHA BOSE, J.

Leave granted in both the petitions.

2. The controversy involved in these proceedings relates to the issue as to whether the appellants possessed the eligibility criteria for appointment to the posts of High School Assistants in the State of Kerala. The main dispute is over the question as to whether the

appellants' B.Ed. degrees were in the subjects fulfilling the eligibility criteria. This is the common question involved in both the appeals and we shall deal with this controversy in a composite manner in this judgment. There are some variations in the factual basis of the claims of both the appellants and we shall refer first to that aspect separately for each of the appellants.

3. In the appeal originating in the Special Leave Petition (Civil) No. 4604 of 2020, the appellant is one Praveen Kumar C.P. We shall refer to him henceforth as PK. The selection process for the post was initiated by an employment notification dated 31st December, 2012, issued by the Kerala Public Service Commission (KPSC). PK had applied for the said post in Natural Science. The notification was for appointment in Malayalam medium institutions in all the fourteen districts of the State of Kerala. The requisite academic qualification for the post for which PK had applied was stipulated Clause 7 of the said employment notification. This Clause read:-

> "7. Qualification:-
>
> A degree in the concerned subject and B.Ed/BT in the concerned subject conferred or recognized by the University in Kerala (Concerned subjects are specified in Note (ii) below)

Note:- (i) Diploma in Rural Service awarded by the national Council for Rural High Education will be treated as equivalent to degree for the above purpose.

(ii) The applicants should have taken Botany or Zoology or Home Science or Micro Biology as Main subjects for graduation or post graduation.

(iii) Question papers for written test if any will be in Malayalam, The candidates should answer the questions in Malyalam.

(iv) The disciplines in Degree and B.Ed Degree were obtained should be mentioned in brackets in the application form.

(v) Those candidates who secured B.Ed/B.T Degree from the Universities outside Kerala should note in the application form, the number and date of relevant orders declaring the said degree as equivalent to those prescribed for this selection. The copies of such order shall be produced before the commission when it is called for."

4. PK had obtained B.Ed. Degree in Biological Science from the University of Mysore, the course which he pursued in Ramakrishna Institute of Moral and Spiritual Education, Yadavgiri, Mysuru. The University from which PK obtained B.Ed. Degree stood recognized by University of Calicut, as would be apparent from Annexure P-10 to the petition for special leave to appeal. This certificate stipulates:-

"UNIVERSITY OF CALICUT

Sl.No.24619 Calicut University P.O
673635

No.EQ/30123/2018 Dated 05 Jul 2018

CERTIFICATE

> Certified that the B.Ed (Biological Science) Degree of the University of Mysore after regular study has been recognized as equivalent to the B.Ed Natural Science Degree of this University.
>
> Sd/-
> For Registrar
>
> Issued to :
>
> Sri :- Praveen Kumar C.P.
>
> Note: This is a general certificate and the original certificate of the individual concerned has not been verified in this office while issuing this. The eligibility and the mode of study will be verified by the Admitting Authority."

5. PK's certificate for B.Ed. degree did not specify the individual subjects which formed part of his curriculum but in a document captioned "Study Certificate" dated 12th December, 2019 issued by the institute from which he pursued the B.Ed. course, it has been specified he had passed B.Ed. Degree examination conducted by the University of Mysore, Mysuru and his subjects in the B.Ed. were Content-cum-Methodology 1-Biology and Content-cum-Methodology 2-Chemistry-(Biological Science). This certificate was issued during pendency of the dispute in the High Court of Kerala.

6. In the Appeal arising out of the Special Leave Petition (Civil) No. 3927 of 2021, the petitioner is one P. Anitha Devi. We shall refer to her later in this judgment as AD. The selection process in her case was

initiated by a similar employment notification dated 15th March, 2014 by the KPSC. The subject-post was the same, i.e. High School Assistant (Natural Science) but the category of schools for which this notification was issued was Tamil medium institutions in the district of Palakkad and Idukki. The relevant Clause pertaining to the qualification criteria of the candidates in this notification was also Clause 7 and the stipulations therein were broadly similar to that contained in the employment notification dated 31st December, 2012. The said Clause in the notification dated 15th March, 2014 specified: -

> "7. Qualifications: -
>
> A degree of Postgraduate degree in the concerned subject and B.Ed/BT in the concerned subject conferred or recognised by the Universities in Kerala (Concerned subjects are specified in Note (ii) below) Note:-
>
> (i) Diploma in Rural Service awarded by the National Council for Rural Higher Education will be treated as equivalent to Degree for the above purpose.
> (ii) The applicants should have taken Botany or Zoology or Home Science or Micro Biology as Main subject for graduation or post graduation.
> (iii) Post title degree holders are not eligible to apply for the post of HSA.
> (iv) Candidates applying for this post should have sufficient knowledge in Tamil. Question papers for written test/OMR test if any will be in Tamil. The candidates should answer the questions in Tamil.
> (v) The disciplines in which Degree and B.Ed degree were obtained should be mentioned in brackets in the application form.
>
> (vi) Those candidates who secured B.Ed/B.T. Degree from the Universities outside Kerala should

note in the application form, the number and date of relevant orders declaring the said degree as equivalent to those prescribed for this selection. The copies of such order shall be produced before the commission when it is called for."

7. AD had obtained B.Ed. Degree in Biological Science and Physical Science from Bharathiar University, Coimbatore, Tamil Nadu. The said degree was also recognized by the University of Calicut in the State of Kerala and certificate to that effect was issued on 31st October, 2017. This would be evident from Annexure P-4 to her petition. This certificate read:-

"UNIVERSITY OF CALICUT

Sl.No.20414 Calicut University P.O.-673635
No.EQ/26497/2017 Dated 31st October 2017

CERTIFICATE

Certified that the B.Ed Degree of the Bharathiar University Coimbatore after regular study has been recognized as equivalent to the B.Ed Degree of this University.

(Office Seal)

Sd/-
For Registrar

Smt. Anitha Devi P.

Note: This is a general certificate and the original certificate of the individual concerned has not been verified in this office while issuing this. The eligibility and the mode of study will be verified by the Admitting Authority."

8. Both of them had participated in the selection process and were included in the "main list", which in substance signified their success in the written test. But question arose as to whether their B.Ed. degrees were in subjects equivalent to the "concerned subject" which was stipulated in the employment notification. What would constitute concerned subject has been stipulated in Note (ii) of Clause 7 of both the employment notifications and neither of them possessed B.Ed. degree in the subjects stipulated to be concerned in the said Clause.

9. As none of the appellants had B.Ed. degree in Natural Science, at the time of verification of the documents of PK after publication of the written test results, objection was raised in his case for not having B.Ed. in the "concerned subject". He was given time to produce the Government Order regarding acceptance of his qualification. In the case of AD also, similar objection was raised. PK had asked for extension of time, which was denied, as submitted by his learned counsel. In case of AD, she along with certain other candidates had approached the Kerala Administrative Tribunal by filing an application (O.A. (EKM) No. 346 of 2018), inter-alia, claiming that she had the requisite qualification. An interim order was passed on 20th February, 2018 by the Tribunal

permitting her to participate in the interview, subject to final outcome of her petition. PK also had approached the Tribunal with an application [O.A. (EKM) No. 257 of 2018] and an order was passed by the Tribunal on 30th January, 2018 permitting him to take part in the interview subject to further order in his case. On the basis of these orders, they participated in the interview. Thereafter, the ranked lists were published but the results of both the appellants were shown to have had been withheld. PK again approached the Tribunal with an Original Application registered as O.A. No. 1525 of 2019 challenging the decision of the authorities in not accepting his B.Ed. Degree, the subject of which he has termed as "Double Option". During pendency of their cases before the Tribunal, the Department of Higher Education, Government of Kerala had issued two Government Orders (GOs) which broadly sustained the claim of the appellants of having degrees equivalent to that of the concerned subject. In the case of PK, the Government Order dated 7th March, 2019 stipulated:-

"HIGHER EDUCATION (B) DEPARTMENT

G.O. (...) No. 54/2019/H Edn.

THIRUVANANTHAPURAM 07/03/2019

Reference:- 1. Request submitted by Sri. Praveenkumar CP on

06.08.2018.
2. Letter No. ACD/03/Reg-1143/REC/18 dated 24.09.2018 of Registrar, Mahatma Gandhi University.

ORDER

Praveenkumar CP who was included in the list of the Kerala Public Service Commission had requested that a Government Order be given stating that B Ed. degree in Biological Science obtained from University of Mysore is equivalent to B Ed. Degree in Natural Science, as per reference No. 1.

Government has considered the issue in detail on the basis of the report of the Registrar of Mahatma Gandhi University as per reference No. 2 which accepted that B. Ed. degree through regular study obtained from University of Mysore is equivalent to B.Ed. degree in Natural Science from Mahatma Gandhi University. It is hereby ordered that B.Ed. degree in Biological Science obtained through regular study from University of Mysore is equivalent to B.Ed. Degree in Natural Science obtained from Mahatma Gandhi University.

(As per Order of Governor)
SWAPNA. P
Under Secretary

Secretary, Kerala Public Service Commission,
Thiruvananthapuram
Registrar- Kerala/M.G./Kannur/Calicut Universities
Sri. Praveen Kumar CP, Cheriyaputhukulangara House,
Iringath
PO, Kozhikode-673523, Office Copy
www.highereducation.kerala.gov.in

As per Order
Sd/-
Section Officer"

10. In the case of AD, a similar order dated 23rd July, 2019 was issued. This GO also covered the case of another candidate Smt. Mafferith. The said order provided:-

"Higher Education (B) Department

G.O.(….) No.254/2019/H.Edn. Dated, Thiruvanathapuram, 23/07/2019

Reference: 1. Application submitted by Smt. Mafferith, Anithadevi

2. Letter No. 103542/EQ&MG SO/2019/Admn. dated 28.06.19 of the Registrar, University of Calicut.

ORDER

Smt. Mafferith, Smt. Anithadevi, who passed the exam conducted by Kerala Public Service Commission had submitted application as per Reference (1) to pass an Order recognizing equivalence of Double Main B.Ed (Biological Science Education & Physical Science Education), Double Main B.Ed (Biological Science Education & English Education) degrees obtained from Bharathiar University through regular mode to B.Ed Natural Science degree of University of Calicut. The University of Calicut vide Reference (2) informed that Double Main B.Ed (Biological Science Education & Physical Science Education), Double Main B.Ed (Biological Science Education & English Education) degrees obtained from Bharathiar University through regular mode has been recognised equivalent as B.Ed Natural Science degree of University of Calicut.

In the said circumstances, it is hereby ordered that Double Main B.Ed (Biological Science Education & Physical Science Education), Double Main B.Ed (Biological Science Education & English Education) degrees obtained from Bharathiar University through regular mode is recognized equivalent to B.Ed. Natural Science degree of University of Calicut.

(As per the Order of Governor)
SWAPNA P
Under Secretary"

11. On the basis of these GOs, the Tribunal allowed both the petitions and directed KPSC to include the appellants' names in the ranked list. In PK's case, the order was passed by the Tribunal on 20th September, 2019 whereas the decision in AD's petition was delivered on 2nd September, 2019.

12. The KPSC assailed the Tribunal's orders before the High Court of Kerala. Their stand before the High Court was that equivalency ought to operate from the dates of issue of the respective GOs and the said GOs could not be given retrospective effect. This argument was sustained by the High Court. In the case of PK, it was inter-alia held by the High Court in OP (KAT) No. 518 of 2019:-

> "The learned Standing Counsel appearing for the PSC also contends that the equivalency issued is after the notification and it could apply only for future selections. Reliance is also placed on two decisions of this Court in Lalitha Bai v. Public Service Commission [1999 (2) KLT 894 and Rajasree v. State of Kerala [2009 (1) KLT 259]. We accept the contention, especially noticing the decision of the Hon'ble Supreme Court in Zonal Manager, Bank of India & Others v. Aarya K. Babu and Another [(2019) 8 SCC 587]. Therein the candidate did not have the qualification specified in the notification, but on the basis of equivalency, this Court allowed the candidate to be continued in the post to the which she was appointed. The Hon'ble Supreme Court deprecated the practice of the High Court granting equivalency and categorically held

> that the equivalency had to be specified in the notification. The reasoning was also that there would have been many other candidates with the very same qualification, who would not have applied in the belief that the said qualification is not one prescribed in the notification.
>
> For all the above reasons, we do not agree with the Tribunal and we allow the original petition setting aside the order of the Tribunal. Parties shall suffer their respective costs."
>
> **(quoted verbatim)**

13. KPSC's petition before the High Court, registered as OP (KAT) No. 465 of 2019 against the Tribunal order in respect of AD was also sustained on similar grounds and the orders of the Tribunal were set aside in both their cases. In PK's case, the judgment was delivered on 18th December, 2019 whereas KPSC's petition against the Tribunal judgment in AD's case was rendered on 12th March, 2020.

14. The broad reasoning of the High Court in both the aforesaid judgments was that the GOs could not be relied upon by the appellants as these were issued subsequent to the employment notifications and on conclusion of the selection processes. Opinion of the High Court was that the acceptance of the Government Orders with retrospective effect would amount to change in the rule of the game mid-way, which is impermissible. The appellants have assailed legality of these judgments

before us. Their main argument is that the GOs only recognised a subsisting position as regards status of their respective educational qualifications and confirmation of the equivalency of their B.Ed. subjects by the respective GOs met the eligibility requirement. It has also been submitted on behalf of the appellants that the rejection of the GOs issued recognizing their subsisting degrees as equivalent to that specified on the ground that they could not be treated to have retrospective operation would not apply in the facts of their cases.

15. The authorities which have been cited before us on behalf of respondents, in support of the two judgments of the High Court are **(i) P. Mahendran v. State of Karnataka [(1990) 1 SCC 411], (ii) Prafulla Kumar Swain v. Prakash Chandra Mishra & Ors. [1993 Supp (3) SCC 181], (iii) Secretary, A.P. Public Service Commission v. B. Swapna & Ors. [(2005) 4 SCC 154], (iv) Prakash Chand Meena & Ors. v. State of Rajasthan & Ors. [(2015) 8 SCC 484]** and **(v) Zonal Manager, Zonal Officer, Bank of India Kochi & Ors. v. Aarya K Babu & Anr. [(2019) 8 SCC 587].** These decisions are mainly authorities on the point that the Rules prevailing on the date of issue of employment notifications ought to prevail under normal circumstances and new Rules or amendments coming midway through a selection

process cannot be applied to that process. Such new Rules would operate prospectively. Certain judgments of the Kerala High Court have also been relied upon by the KPSC on the same proposition of law. But we do not consider it necessary to multiply the authorities in this judgment on the same point.

16. Before us, argument has also been advanced by the learned counsel for the appellants on legality of introducing specific subjects in B.Ed. as qualifying criteria for the posts in question. Our attention in this regard has been drawn to Clause 2(2)(a) of Chapter XXXI of the Kerala Education Rules, 1959. The said Clause lays down that "A Degree in concerned subject and B.Ed./ B.T./L.T conferred or recognized by the Universities of Kerala" as qualification of a High School Assistant in a particular subject. According to the appellants, there is no provision for requiring a candidate having B.Ed. in concerned subject under the said Rules. The heading of that chapter specifies that these are "Qualifications of Private School Teachers". But in their written submissions, the State government has referred to the same Rules to be applicable in the appellants' cases as well. The appellants were seeking employment in the State educational sector. The State wants us to give a strained interpretation to the said Rules treating the same to be

applicable for the subject-posts, which are in State institutions and simultaneously read the words “concerned subject” in relation to B.Ed. Degree also. This argument of the State is advanced on the ground that it would be in the interest of maintaining quality of education. But on a plain reading of the said clause, it is apparent that there is no specific subject in B.Ed. has been made to be the qualifying criteria in Clause 2(2)(a) of Chapter XXXI of the 1959 Rules. The graduation requirement in concerned subject is there, but going by the said Clause, it postulates B.Ed. degree simplicitor as the eligibility criteria. No other Rule has been shown to us by the learned counsel for the State of Kerala or the Commission from which it can be inferred that there was requirement of a candidate for the subject posts to hold B.Ed. degree in the concerned subject. So far as the present appellants are concerned, no dispute has been raised over their graduation being in the concerned subject.

17. On behalf of KPSC, it has been contended that it was within their power to stipulate qualification beyond that what is specified in aforesaid Clause 2(2)(a) and they have relied on Kerala State and Subordinate Services Rules, 1958 to establish that they had power to do so. The said Rules lay down various aspects of recruitment and conditions of service in the State of Kerala and Rule 10 thereof deals

with qualification requirements for a post in State and Subordinate Services. The Kerala State and Subordinate Services Rules, 1958 have been framed under Article 309 of the Constitution of India. The relevant provisions of Clause 10 thereof provide:-

> "**10. Qualifications.** _____ (a) (i) The educational or other qualifications, if any, required for a post shall be as specified in the Special Rules applicable to the service in which that post is included or as specified in the executive orders of Government in cases where Special Rules have not been issued for the post/service.
>
> (ii) Notwithstanding anything contained in these rules or in the Special Rules, the qualifications recognized by executive orders or standing orders of Government as equivalent to a qualification specified for a post, in the Special Rules or found acceptable by the Commission as per rule 13 (b) (i) of the said rules in cases where acceptance of equivalent qualifications is provided for in the rules and such of those qualifications which pre-suppose the acquisition of the lower qualification prescribed for the post, shall also be sufficient for the post."

18. Clause 13 of the 1958 Rules permits the Commission to prescribe special qualifications in cases where appointments have to be made in consultation with it or by the State Government or by an appointing authority with approval of State Government in other cases. No specific notification or order issued by the KPSC has been brought to our notice under which the eligibility criteria of holding B.Ed. Degree had to be in the concerned subject for the posts of High School Assistants. KPSC's submission on this point is that the same was not raised at any earlier

stage of the proceeding. But in our opinion, the appellants cannot take aid of this argument as the respective employment notifications had specified B.Ed. in concerned subject. The appellants having participated in the said selection process without raising any objection on that count, it would not be open to them to question the eligibility criteria specified in the employment notification. We shall, thus, proceed on the basis that the candidates for the posts in question were required to have B.Ed. degree in the concerned subject and it is not in dispute that B.Ed. degrees of the appellants were not in the concerned subjects. The two GOs, however, confer on the subjects in which the appellants obtained B.Ed. degrees, equivalency to the required subjects.

19. There is support for adoption of principle of equivalency in Clause 10 (a)(ii) of the 1958 Rules. The appellants' case is also that their B.Ed. degrees should have been accepted as their subjects in the respective degree courses were equivalent to the designated subjects, as was stipulated in the employment notifications.

20. We shall now turn to the question as to whether the two GOs dated 07th March, 2019 and 23rd July, 2019 could apply in the cases of the appellants for consideration of the equivalent status of their degrees in B.Ed., the employment notifications having been published in the years

2012 and 2014. In that perspective, will consideration of their degrees in B.Ed. in the light of the aforesaid two GOs result in changing the rules of the game mid-way?

21. Before we address that question, we shall refer to Note (v) and Note (vi) of Clause 7 of the respective employment notifications concerning PK and AD respectively. We have reproduced the said Clauses earlier in this judgment. There was requirement in Clause 7 that the candidates ought to disclose the dates of GOs declaring equivalency to the concerned subjects. But neither the KPSC nor the State has argued before us that there was any defect in the appellants' applications. They were permitted to participate in the written test. On this count, the respondents have relied on a judgment of this Court in the case of **T. Jayakumar v. A. Gopu [(2008) 9 SCC 403]** to contend that oversight on the part of the authorities at the stage of processing applications would not be treated to be condonation of some fatal defect in such applications. Next requirement, as per said Clause 7 was production of such Orders before the Commission when the same was called for. The respective clauses did not, however, identify the authorities who should issue such orders. The two universities of the State of Kerala have certified the appellants' B.Ed. degrees to have equivalent status to the

ones required and this was followed by the two GOs. These documents, however, were generated during the selection process.

22. A large body of authorities was cited to contend that such recognition subsequent to publication of the employment notification was impermissible. The High Court particularly relied on a Full Bench decision of the Kerala High Court in the case of **A. Suma v. The Kerala Public Service Commission & Ors.** reported in **[(2011) 1 KLT1 (FB)].** In that judgment, referring to the 1958 Rules, it was held that the Commission was incompetent to deal with the question of equivalence of educational and other qualifications prescribed unless the subject rules provided for recognition of qualifications other than that prescribed as equivalent. But so far as these two appeals are concerned, we are not dealing with a question as regards the authority of Commission to deal with the question of equivalency. In this case, equivalency has been declared by the State Government, and prior to that, by two universities of the State of Kerala. The power of the State Government to make orders on the question of equivalence is not in dispute. Such power, inter alia, stems from Clause 10(a) (ii) of 1958 Rules. Thus, the case of **A. Suma** (supra) has no application as regards the appellants' rights to be considered for the posts in question having regard to their B.Ed. degrees.

23. Learned counsel for the respondents have emphasised on the decision of this court in the case of **Aarya K. Babu** (supra)**.** This case involved the question of appointment of certain individuals by the appellant bank in the post of Agricultural Field Officer. One of the degrees prescribed in the eligibility criteria was Agro-Forestry. The clause relating to qualification requirement in the notification dated involved in the said case read:-

> "4-year degree (graduation) in Agricultre/Horticulture/Animal Husbandry/Veterinary Science/Diary Science/Agri Engineering/Fishery Science/Pisciculture/Agri Marketing & Co-operation/Co-operation & Banking/Agro-Forestry."

24. The candidates who brought that action initially did not possess degree in any of the subjects specified therein, but their degrees were in Forestry. They were successful in the selection process but their selection was cancelled on the ground that they did not possess the prescribed qualification in terms of the notification. It transpired that there was no 4-year degree programme being offered in this country for Agro-Forestry. Indian Council of Agricultural Research (ICAR) had taken a view that definition of agriculture included forestry. It appears that on that basis the degrees of the respective candidates in that

proceeding were accepted at the initial stage. In the month of November, 2015, an Office Memorandum was issued by the Ministry in which the fact of there being no 4-year bachelor programme in Agro-Forestry available in the country was taken note of. On the ground that Agro-Forestry was covered comprehensively as a subject in the ICAR approved syllabus for B.Sc. Forestry, it was suggested that it would be appropriate that degree in B.Sc. Forestry ought to be considered for the posts of Agricultural Field Officer in banks. A corrigendum was subsequently issued by the Indian Bank Personnel Selection (IBPS) on 16th January, 2016 in that regard. The cancellation order was successfully challenged by the terminated candidates in the High Court of Kerala, against which the Bank instituted the petition for special leave to appeal. Leave was granted in the Bank's petition. It was held by a coordinate Bench of this Court in the case of **Aarya K. Babu** (supra):-

> **"17.** In that backdrop, though in the instant facts presently the qualification possessed by the private respondents is decided to be included for the purpose of recruitment to the post of Agricultural Field Officer, as on the date of the recruitment notification the same was not included therein, which cannot be substituted by the Court with retrospective effect for the reasons stated above. Therefore, in the said circumstance, in the present facts, the High Court was not justified in its conclusion. We, however, make it clear that though we have referred to the legal position and applied the same to the case of the parties who are before us, if in the case of similar recruitment, the employers themselves have permitted the equivalence and

> have continued such of those officers recruited, this decision shall not be applied to initiate action against such officers at this distant point of time. Subject to the above, the orders passed by the High Court of Kerala which are impugned herein are set aside.
>
> **18**. Having arrived at the above conclusion we also take note of the submission of the learned counsel for the private respondent in the appeal arising out of SLP (C) No. 16567 of 2016, namely, Smt. Aarya K. Babu that she is placed in very difficult circumstances subsequent to the discharge from service which is also due to certain setback in her personal life. Though we do not wish to articulate the actual fact situation narrated we have no reason to disbelieve the same, hence, we find it appropriate that in her case it is necessary to exercise our discretion under Article 142 of the Constitution to serve the ends of justice and do complete justice without prejudicing either of the parties. In that view, we direct the appellant Bank of India to provide appointment to Smt. Aarya K. Babu as Agricultural Field Officer or such other equivalent post if the vacancy exists as on today or in the vacancy that would arise in future. In that regard it is made clear that the same will be considered as a fresh appointment from the date of appointment and no previous benefit can be claimed by her. Further, it is made clear that this direction is issued in the peculiar facts and circumstances of this case and the same shall not be treated as a precedent for any other case."

25. So far as the present appeals are concerned, the facts are not identical or near similar also considering the factual background of the case of **Aarya K. Babu** (supra). In the two GOs which have been reproduced earlier, it has been specified that the respective B.Ed. degrees of the appellants through regular study were equivalent to B.Ed. degree in Natural Science. In the case of PK, his B.Ed. Degree in Biological Science was recognized as equivalent to B.Ed. Natural Science Degree

of Mahatma Gandhi University, Kerala. In the case of AD, the GO stipulated that Double Main B.Ed. (Biological Science Education and Physical Science Education) degree obtained by her through regular mode was recognized as equivalent to B.Ed. Natural Science Degree of University of Calicut. It is a fact that these orders came much after the employment notifications were issued. But what we have to address in these appeals is as to whether the respective B.Ed. degrees of the appellants declared as equivalent to those of the concerned subjects as notified would operate from the dates of issue of the respective GOs or the same would relate back to the time when they obtained the degrees or at least to the date of the employment notification. The appellants have relied on a decision of a coordinate Bench in the case of **Beena R. v. Kerala Public Service Commission and Ors. [(2017) 15 SCC 306].** In that case, however, there was no dispute in the case of appellant that she possessed equivalent qualification of KGTE (English typewriting) but she did not have separate certificate as far as the computer wordprocessing was concerned. In this judgment, a coordinate Bench examined the implication of the expression “produced”. This authority does not aid the appellants.

26. Note (v) of Clause 7 of the employment notification in the case PK and Note (vi) of Clause 7 of the employment notification in the case of AD required disclosure of the equivalency orders. A plain reading of the two GOs clearly reflect that their degrees were equivalent to the requisite qualifications contained in the eligibility criteria. In the case of **Aarya K. Babu** (supra), the disputed subject was recognized subsequently and introduced as part of the eligibility criteria. The principle of equivalency was not the main reasoning on the basis of which the said case was decided. The word "equivalence" in its plain meaning implies something which is equal to another. In the field of academics, application of the principle of equivalency in relation to degrees in two subjects would mean that they had the same standing or status all along, unless the official instrument according equivalency specifies a date from which the respective subjects would be treated as such, in express terms or by implication.

27. Whether a GO would have prospective effect or relate back to an earlier date is a question which would have to be decided on the basis of text and tenor of the respective orders. The GOs which declared appellants' degrees to be equivalent to those required as per the applicable notifications were not general orders but these two orders

were person specific, relating to the two appellants. Once the GOs specifically declared that their B.Ed. degrees were equivalent to the designated subject which formed part of the employment notification, the GOs in substance have to be interpreted as clarificatory in nature and these cannot be construed to have had elevated the status or position of the degree they already had after the declaration was made in the GOs. The subject GOs only recognised an existing state of affairs so far as the nature of the degrees were concerned and did not create fresh value for the degrees which the appellants possessed. Though these equivalent orders were not in existence on the dates of issue of employment notifications, the GOs in substance recognize such status from the dates of obtaining such degrees. The GOs do not reveal any intervening circumstances which could be construed to imply that the respective degrees acquired the equivalent status because of such circumstances occurring subsequent to grant of their B.Ed. degrees. The aforesaid Notes to Clause 7 of the employment notifications postulated disclosure of the number and date of the orders on equivalence. But the GOs to which we have referred treat the equivalency to be operating on the dates of obtaining such degrees. Thus, the defect, if any, on disclosure requirement, shall stand cured on issue of the University orders followed

by the GOs. The GOs also specify the context in which these were issued and refer to the appellants being included in the list of KPSC. This being the case, we do not think treating the appellants' degrees as equivalent to those required under the applicable notifications by the GOs issued in the year 2019 would result in change in the rules of the game midway. At best, it can be termed as interpreting the rules when the game was on, figuratively speaking. Such a course would, in our opinion, be permissible. For this reason, we do not consider it necessary to deal with the different authorities cited on the principle of "change in the rule of the game midway". We have opined that the appellants' degrees in B.Ed. were equivalent to those required by the employment notifications and the equivalency orders were merely clarificatory in nature. For this reason, we do not think there was any fundamental breach of Notes (v) and (vi) of Clause 7 of the respective employment notifications in the cases of the appellants.

28. Once we hold so, we do not think relief can be denied to these two appellants on the ground that other similarly situated persons may not have had applied for the same posts and were being put to disadvantage. In the case of **Aarya K. Babu** (supra), that course was adopted by a coordinate Bench as it was a new subject which was added to a

subsisting range of subjects in the qualification criteria. The principle of service jurisprudence that a candidate must possess the requisite qualification for a post on the date of issue of employment notification cannot be applied in the appellants' cases, as in our view, they possessed equivalent qualifications when they applied for the posts. The GOs only confirmed the equivalency of their B.Ed. degrees. In our opinion, they shall be deemed to have had the equivalent qualification on the relevant date. As we have held that the respective GOs only clarified or confirmed an existing status of certain educational qualifications, in absence of specific instance of similarly situated but unspecified number of persons having not applied for the posts would be unfair to the ones who apply for the same and undergo three levels of litigations to establish that they had equivalent degrees.

29. The judgments under appeal are accordingly set aside and the orders of the Tribunal dated 20th September, 2019 and 2nd September 2019 shall stand restored. Let result of the appellants be disclosed and in the event, on the basis of their performance, they come within the list of selected candidates as per the ranked lists, the benefit thereof shall not be denied to the appellants on the ground of lapse of the list by efflux of time. In the event they qualify for appointment, they shall be given

appointment and they shall be treated to have been in service from the date of their appointment in their respective posts. The appeals stand allowed in the above terms. All pending applications stand disposed of.

30. There shall be no orders as to costs.

…….J
(L.NAGESWARA RAO)

…….J
(ANIRUDDHA BOSE)

New Delhi
Dated 17th August, 2021