

**In The Hon'ble High Court Of Judicature At Allahabad,
Lucknow Bench, Lucknow**

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Neutral Citation No. - 2025:AHC-LKO:2355-DB

A.F.R.

Court No. - 1

Case :- SPECIAL APPEAL DEFECTIVE No. - 10 of 2025

Appellant :- Saurabh Saxena

Respondent :- Union Of India Thru. Secy. Ministry Skill
Development Entrepreneurship New Delhi And 5 Others

Counsel for Appellant :- Rishi Raj, Garv Saxena

Counsel for Respondent :- A.S.G.I., C.S.C., Gaurav Mehrotra, S M
Singh Royekwar

Hon'ble Attau Rahman Masoodi J.

Hon'ble Subhash Vidyarthi J.

**C.M. Application No.1 of 2025 (Application for condonation of
delay in filing the Special Appeal)**

1. Heard Sri Rishi Raj, the learned counsel for the appellant, Sri Prafulla Yadav, the learned Additional Chief Standing Counsel appearing on behalf of the State, Sri Anand Dwivedi, the learned counsel for Union of India, Sri S.M. Singh Royekwar, the learned counsel for the U.P. Subordinate Services Selection Commission and perused the records.
2. This is an application for condonation of delay in filing the Special Appeal. The learned Counsel for the respondent did not raise any objection against the application. We find that just and plausible reasons have been disclosed by the applicant-appellant for seeking condonation of delay.
3. The application for condonation of delay is allowed and the delay in filing the Special Appeal is hereby condoned.
4. Let the Special Appeal be assigned a regular number.

Order on the Special Appeal: -

1. By means of the instant Intra Court Appeal filed under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 the appellant has challenged the validity of the judgment and order dated 21.02.2024, passed by an Hon'ble Single Judge Bench of this Court in Writ-A No.1327 of 2024, whereby the Writ Petition filed by the appellant challenging an order dated 15.02.2024 passed by Uttar Pradesh Subordinate Services Selection Commission, was dismissed. The appellant had filed an application for review of the aforesaid order which has been dismissed by an order dated 26.11.2024 and the appellant has challenged the validity of that order also.
2. Briefly stated, facts of the case are that Uttar Pradesh Subordinate Services Selection Commission had issued an advertisement for making appointments on various posts, including some posts of Instructors in Sewing Technology. The eligibility qualification for appointment to the post of Instructor is as follows: -
 - (i) having passed High School Examination conducted by the Intermediate Education Board, U.P. or any other examination recognized by the government as equivalent thereto,
 - (ii) eligibility qualification for different trades/subjects as provided in Column 4 of the Appendix and
 - (iii) National Craft Instructor Certificate in relevant trade under DGT and any other qualification prescribed in Column 4 of the Appendix.

The advertisement further provided that the candidate must possess the relevant experience, as provided in Column 4 of the Appendix.
3. The appellant had applied for the post of Instructor in Sewing Technology for which the essential qualification prescribed in Column 4 of the Appendix to the Uttar Pradesh Government Industrial Training Institutes (Instructors and Foreman Instructors) Service Rules, 2021 referred to in the advertisement, is as follows: -

33.	Sewing Technology	[4]	<i>B. Voc/Degree in Fashion & Apparel Technology from U.G.C. recognized College/University with one-year experience in the relevant field.</i> <i>OR</i> <i>Diploma (Minimum 2 years) in Garment Fabrication Technology/ Costume Design & Dress making from recognized board of technical education or relevant Advanced Diploma (Vocational) from D.G.T. with two years experience in the relevant field.</i> <i>OR</i> <i>NTC/NAC passed in the trade of “Sewing Technology” earlier named as “Cutting & Sewing” with three years experience in the relevant field.</i>
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- 4. The appellant possess a three years’ Diploma Certificate in Textile Technology granted by the U.P. Technical Education Board, Lucknow and he also possesses a National Craft Instructor Certificate issued by the National Council for Vocational Training in ‘Cutting and Sewing’ trade. His candidature was rejected on the ground that he does not possess any of the qualifications mentioned in Column 4 of the Appendix.
- 5. The appellant had submitted a representation for considering his candidature by treating his qualification of Diploma in Sewing and Cutting Trade as equivalent to a Diploma in Costume Design and Dress Making. This representation has been rejected by an order dated 15.02.2024 passed by the U.P. Subordinate Service Selection Commission, which order was challenged before the Writ Court.
- 6. The Writ Court held that the appellant does not possess any of the eligibility qualifications for the post of Instructor in Sewing Technology Trade mentioned in the Appendix appended to the Uttar Pradesh Government Industrial Training Institutes (Instructors and Foreman Instructors) Service Rules, 2021. The appellant possesses a

Diploma in Textile Technology which is not mentioned in Column 4 of the Appendix. The Writ Court further held that the certificate issued to the appellant by National Council for Vocational Training after undergoing one year training in Cutting and Sewing Trade is not a recognized qualification under the relevant rules.

7. The appellant filed a review application stating that after dismissal of the Writ Petition, he had obtained information from the Secretary, U.P. Technical Educational Board to the effect that Textile Technology and Costume Design and Dress Making are equivalent under the major discipline 'Textile Engineering'. The appellant claimed that he has pursued a three years' Diploma course in Textile Technology which is equivalent to 'Costume Design and Dress Making'.
8. While deciding the review application the Hon'ble Single Judge has held that the information provided by the Secretary of U.P. Technical Education Board is nothing but his own interpretation that it can be treated as equivalent to the courses mentioned above and he has not said that it is equivalent.
9. While assailing validity of the orders passed by the Writ Court, the learned counsel for the appellant has submitted that the Secretary U.P. Technical Education Board has provided a copy of Annexure 7 to the Approval Process Handbook, 2022-23 issued by All India Council for Technical Education Board containing a list of Diploma courses and the relevant/appropriate branches and he has stated that those can be treated as equivalent. Annexure-7 appended to the information provided by the Secretary of U.P. Technical Education Board contains a list of numerous major disciplines, their corresponding courses and relevant/appropriate branch of Diploma in engineering and technology. Textile Engineering is mentioned as a major discipline in this annexure and numerous Diploma courses have been mentioned as permissible for merger, including Textile Technology and Costume Design & Dress Making. On the strength of this document the learned counsel for the appellant has submitted that as the appellant possesses

a Diploma in Textile Technology, it should be treated as equivalent to a Diploma in Garment Fabrication Technology / Costume Design and Dress Making.

10. In support of his submission the learned counsel for the appellant has relied upon a decision rendered by an Hon'ble Single Judge of Tripura High Court in the case of **Sri Subir Sutradhar Vs. State of Tripura and two others**: 2023 SCC OnLine Tri 183, wherein it was held that a Degree of Bachelor of Engineering in Construction Technology and Management is equivalent to B.Tech Civil Engineering.
11. Per contra, Sri S.M. Singh Royekwar, the learned counsel for the U.P. Subordinate Services Selection Commission, has submitted that equivalence of qualification for the purpose of appointment is to be decided by the employer in accordance with the relevant Rules. The qualification held by the petitioner is not equivalent to the qualification mentioned in the advertisement as per the provisions contained in the Rules. He has placed reliance upon a judgment of the Hon'ble Supreme Court in the case of **Shifana P.S. Vs. State of Kerala and others**: (2024) 8 SCC 309 wherein the Hon'ble Supreme Court has referred to numerous precedents on the point and held as follows: -

*“13. This Court in the case of Zahoor Ahmad Rather and Others v. Sheikh Imtiyaz Ahmad and Others: (2019) 2 SCC 404 held that judicial review can neither expand the ambit of the prescribed qualifications nor decide the equivalence of the prescribed qualifications with any other given qualification. **Therefore, the equivalence of a qualification is not a matter that can be determined in the exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the State, as the recruiting authority, to determine.***

(emphasis in original)

14. In Unnikrishnan CV and Others v. Union of India and Others: (2023) 18 SCC 546, a three Judge Bench of this Court, while relying upon the earlier judgment in the case of Guru Nanak Dev University v. Sanjay Kumar Katwal and Another: (2009) 1 SCC 610 held that equivalence is a technical academic matter, it cannot be implied or assumed. Any decision of the

academic body of the University relating to equivalence should be by specific order or resolution, duly published.”

12. In **District Collector and Chairman Vijayanagaram Vs. M. Tripura Sundari Devi**: 1990 (3) SCC 655, the respondent was appointed on a post of post graduate teacher in Hindi but at the time of scrutiny of documents it was found that he did not possess the eligibility qualification mentioned in the advertisement and she was not allowed to join the service. Deciding the appeal, the Hon’ble Supreme Court held as follows: -

“6. It must further be realised by all concerned that when an advertisement mentions a particular qualification and an appointment is made in disregard of the same, it is not a matter only between the appointing authority and the appointee concerned. The aggrieved are all those who had similar or even better qualifications than the appointee or appointees but who had not applied for the post because they did not possess the qualifications mentioned in the advertisement. It amounts to a fraud on public to appoint persons with inferior qualifications in such circumstances unless it is clearly stated that the qualifications are relaxable. No court should be a party to the perpetuation of the fraudulent practice. We are afraid that the Tribunal lost sight of this fact.”

13. In **Shifana P.S. (Supra)**, the Hon’ble Supreme Court relied upon an earlier judgment in the case of **Zahoor Ahmad Rather and Others v. Sheikh Imtiyaz Ahmad and Others**: (2019) 2 SCC 404, wherein the Hon’ble Supreme Court considered numerous precedents on the point and held as follows:

*“26. We are in respectful agreement with the interpretation which has been placed on the judgment in **Jyoti KK [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596]** in the subsequent decision in **Anita (supra) [State of Punjab v. Anita, (2015) 2 SCC 170]**. The decision in **Jyoti KK** turned on the provisions of Rule 10(a)(ii). Absent such a rule, it would not be permissible to draw an inference that a higher qualification necessarily pre-supposes the acquisition of another, albeit lower, qualification. **The prescription of qualifications for a post is a matter of recruitment policy. The state as the employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. Similarly, equivalence of a qualification is not a matter which***

can be determined in exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the state, as the recruiting authority, to determine. The decision in Jyoti KK turned on a specific statutory rule under which the holding of a higher qualification could pre-suppose the acquisition of a lower qualification. The absence of such a rule in the present case makes a crucial difference to the ultimate outcome. In this view of the matter, the Division Bench of the High Court was justified in reversing the judgment of the learned Single Judge and in coming to the 10 id at page 177 conclusion that the appellants did not meet the prescribed qualifications. We find no error in the decision of the Division Bench.

27. While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The state is entrusted with the authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision making. The state as a public employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these are essentially matters of policy. Judicial review must tread warily. That is why the decision in Jyoti KK must be understood in the context of a specific statutory rule under which the holding of a higher qualification which presupposes the acquisition of a lower qualification was considered to be sufficient for the post. It was in the context of specific rule that the decision in Jyoti KK turned.”

(Emphasis added)

14. In the present case the advertisement states that the eligibility qualification will be as per Column 4 of the Appendix to the Uttar Pradesh Government Industrial Training Institutes (Instructors and Foreman Instructors) Service Rules, 2021, which mentions a two years' Diploma in Garment Fabrication Technology/Costume Design & Dress making from a recognized Board of Technical Education or relevant Advanced Diploma (Vocational) from D.G.T. with two years' experience in the relevant field or NTC/NAC passed in the trade of “Sewing Technology”, earlier named as “Cutting & Sewing”,

with three years' experience in the relevant field. The appellant does not possess any of the aforesaid qualifications.

15. Although, the advertisement mentioned that a candidate should have passed the High School examination conducted by the U.P. Intermediate Education Board or any other examination recognized by the State Government as equivalent thereto, the clause of equivalence is not there in respect of the qualification of Diploma. Therefore, any person claiming to possess any qualification equivalent to a Diploma in Garment Fabrication Technology/Costume Design & Dress Making or NTC/NAC passed in the trade of "Sewing Technology", would not be eligible to apply against the advertisement.
16. Further, as per the law settled by the Hon'ble Supreme Court, the question of equivalence of qualification in the matter of examining the eligibility for the purpose of employment, is to be decided by the employer and the Courts cannot treat any qualification to be equivalent to the qualifications prescribed in the Rules and mentioned in the advertisement. In case the appellant's claim of equivalence of qualification is allowed, all other similarly situated persons, who did not apply as they did not possess the qualification prescribed by the Rules and mentioned in the advertisement, would suffer discrimination and injustice.
17. Therefore, we find ourselves in complete agreement with the view taken by Hon'ble Single Judge while dismissing the writ petition.
18. The Special Appeal lacks merit and the same is hereby **dismissed**.

[Subhash Vidyarthi, J.] [A.R. Masoodi, J.]

Order Date: 15.01.2025

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