

REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S). 10389 OF 2024

**CHANDRA SHEKHAR SINGH
AND OTHERS**

.....APPELLANT(S)

VERSUS

**THE STATE OF JHARKHAND
AND OTHERS**

....RESPONDENT(S)

J U D G M E N T

Mehta, J.

1. Heard.
2. The appellants have approached this Court by way of this appeal seeking a direction upon the respondents to consider the candidature of the appellants for

appointment as Food Safety Officers¹, pursuant to the notification dated 7th October, 2015 issued by the Jharkhand Public Service Commission² upon the requisition of the State of Jharkhand.

3. The appellants herein have the qualifications of post-graduation in science with microbiology, food and technology subjects. They applied for the post of FSO in pursuance of the Advertisement No. 01/2016³ issued by the JPSC wherein the educational qualification for the said post was stipulated in the terms below: -

“A Degree in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agriculture Science or Veterinary Sciences or Biochemistry or Microbiology or Master Degree in Chemistry or Degree in Medicine from a Recognized University.”

4. The appellants were declared successful in the written examination and were called for interviews by JPSC, however, during the course of recruitment process, they were disqualified on the ground that the Master's degree possessed by the appellants could not

¹ Hereinafter, being referred to as 'FSO'.

² Hereinafter, being referred to as 'JPSC'.

³ Hereinafter, being referred to as 'subject advertisement'.

be treated as a valid educational qualification for the purpose of selection to the post of FSO in the State of Jharkhand.

5. Being aggrieved, the appellants invoked the writ jurisdiction of the High Court of Jharkhand⁴ seeking a mandate to the concerned authorities to conduct the interview of the appellants and to declare the result. A prayer was also made to direct the respondents to accept the Master's degree held by the appellants as a valid qualification for appointment to the post of FSO, in pursuance to the subject advertisement. Learned Single Judge dismissed the writ petition by order dated 30th June, 2020.

6. Being aggrieved, the appellants preferred an intra court appeal⁵ to the Division Bench of the High Court. In the said appeal, respondent No.8-University Grants Commission⁶ filed a counter affidavit in the said proceedings affirming that 'degree' would include any

⁴ Hereinafter, being referred to as 'High Court'.

⁵ LPA No. 244 of 2020

⁶ Hereinafter, being referred to as 'UGC'.

degree in the specified subjects, either Bachelor's or Master's. Thereafter, a supplementary affidavit came to be filed by the UGC, wherein it was submitted that the degree would mean any such degree which is previously approved by the Central Government to be specified in this behalf. The Division Bench dismissed the intra-court appeal, preferred by the appellants, *vide* judgment dated 2nd August, 2023, holding that the appellants did not possess a degree of graduation in Food Technology; Dairy Technology; Biotechnology; Oil Technology; Agriculture Science; Veterinary Sciences; Biochemistry or Microbiology in terms of the subject advertisement and that the degrees of post-graduation held by the appellants in the fields of Microbiology/Food Science and Technology would not meet the qualification criteria in terms of the subject advertisement. The aforesaid judgment of the High Court in the intra-court appeal is the subject matter of challenge in this appeal by special leave.

Submission on behalf of the appellants: -

7. Learned counsel, appearing for the appellants, vehemently and fervently submitted that in the subject advertisement, the eligibility criterion stipulated was that the candidate should hold a degree in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agriculture Science or Veterinary Sciences or Biochemistry or Microbiology. In addition, it was also provided, in the subject advertisement, that the candidates having Master's degree in Chemistry or degree in medicine from a recognized University would also be qualified to vie for the post.

8. Learned counsel further urged that the term 'degree' as mentioned in the subject advertisement cannot be given a restrictive meaning so as to exclude the post-graduation degree in the relevant subjects from the ambit and scope thereof. He contended that the subject 'Adulteration of foodstuffs and other goods', under which the Food Safety and Standards Act, 2006⁷

⁷ The Food Safety and Standard Act, 2006 (Act No. 34 of 2006). Hereinafter, being referred to as 'FSS Act'.

has been promulgated, finds place at Item No. 18 of List-III (Concurrent List), Seventh Schedule of the Constitution of India.

9. As per Article 246(2) of the Constitution of India, the Parliament as well as the State Legislatures have concurrent powers to make laws with respect to any of the matters enumerated in the List III of the Seventh Schedule.

10. Learned counsel referred to Article 254 of the Constitution of India and urged that in case of inconsistency between the laws made under the concurrent list by the Parliament and the State Legislature, the law enacted by the former will prevail. He further referred to the FSS Act and urged that sub-section (1) of Section 37 therein clearly provides that the qualifications for the post of FSOs shall be prescribed by the Central Government. The State Government's role under the FSS Act is limited to authorizing any Officer of the State Government, having the requisite qualifications in terms of the sub-section (1) of Section

37, to perform the functions of a FSO within a specified jurisdiction.

11. He further contended that sub-section (2) of Section 37 caters to transitory situations which may occur owing to the non-availability of regularly selected FSOs. In such a situation, the State Governments have been given the power to authorise any other Officer, having requisite qualifications to perform the functions of the FSO.

12. Learned counsel further referred to Section 91 of the FSS Act to urge that the statute clearly provides that only the Central Government is competent to make rules for prescribing qualifications for the post of FSO. The power of the State Government to make rules is provided under Section 94 of the FSS Act, which is limited only to the extent of defining the functions and duties to be assigned to the State Government and the State Commissioner of Food Safety under the FSS Act, and the rules and regulations made thereunder.

13. Learned counsel also submitted that the term 'Degree' as defined in Section 22(3) of the University Grants Commission Act, 1956⁸ includes the 'Bachelor's Degree', 'Master's Degree' and 'Doctorate Degree'. Thus, wherever any statute or a notification stipulates 'degree' as a qualification, the same would cover all the three degrees i.e., Bachelor's, Master's and a Doctorate Degree, within its scope and ambit. To buttress this contention, learned counsel referred to the supplementary counter affidavit filed by the UGC, wherein the Commission has specifically mentioned that the degree in the present context would be any such degree with the previous approval of the Central Government.

14. It was further contended that the educational qualification prescribed for eligibility for the post of FSO in the FSS Act applies uniformly across the country, including the State of Jharkhand, and the discrimination sought to be carved out by the respondents in the subject recruitment process, by

⁸ Hereinafter being referred to as the 'UGC Act'.

giving a different and restricted interpretation to the term 'degree', is arbitrary and unconstitutional.

15. Reference was also made by learned counsel for the appellants to the amendment introduced by the Central Government by virtue of the Food Safety and Standards (First Amendment) Rules, 2022 wherein it has been specifically provided that the qualification for the post of FSO shall be a Bachelor's or a Master's or a Doctorate degree in the aforesaid subjects. As per the learned counsel, this amendment has been brought around to clear the air in respect of the confusion prevailing regarding the eligibility criteria for the post of FSO. He placed reliance on the judgment of this Court in ***Parvaiz Ahmad Parry v. State of Jammu and Kashmir and Others***⁹; to urge that a candidate possessing a higher degree in the subject prescribed under the advertisement cannot be disqualified by reason of ineligibility for not possessing the required degree.

⁹ (2015) 17 SCC 709.

16. On these grounds, learned counsel for the appellants implored the Court to accept the appeal, set aside the judgments passed by the learned Single Judge and the Division Bench of the High Court, and direct the respondents to complete the recruitment process by giving an opportunity to the appellants to participate in the interview and to appoint them, with all consequential benefits, if they qualify. In the alternative, he implored the Court to direct the respondents to consider the claim of the appellants in the subsequent recruitment process conducted in the year 2023.

Submission on behalf of the respondents:-

17. *Per contra*, learned counsel appearing for the respondents, vehemently and fervently opposed the submissions advanced by the appellants' counsel. They urged that the appellants participated in the recruitment process without challenging the conditions set out in the subject advertisement, which in unequivocal terms provided that the educational qualification required for the subject posts would be a

degree in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agriculture Science or Veterinary Sciences or Biochemistry or Microbiology or Master's degree in Chemistry. The eligibility of a candidate holding a Master's degree has been restricted to only the Chemistry subject in the column of educational qualifications prescribed in the subject advertisement.

18. Learned counsel for the respondents submitted that taking consideration of the specific qualifications mentioned in the subject advertisement, the appellants cannot be permitted to expand the scope of the word 'degree' as appearing in the advertisement by claiming that the same would also cover a Master's degree in the contemporary subjects in contravention to the stipulations as made in the subject advertisement.

19. On these grounds, learned counsel for the respondents submitted that the concurrent findings recorded by the learned Single Bench and the Division Bench of the High Court, in rejecting the claims made by the appellants, do not warrant any interference.

Discussion:-

20. We have given our thoughtful consideration to the submissions advanced at the bar and have gone through the material placed on record.

21. It is not in dispute that the appellants laid a claim for the posts in question by disclosing that they were possessed of Master's degrees in Microbiology; Food Science and technology subjects. Thus, there was no ambiguity or misrepresentation by the appellants regarding their educational qualification at the time of applying in the subject recruitment process. The respondent-recruiting authority consciously accepted the application forms of the appellants and pursuant to their performance on merit, the appellants were called for an interview. It is at this stage that the appellants were declared disqualified and were ousted from the selection process on the premise that they were holding Master's degrees in the relevant subject/s, whereas the rules and the advertisement clearly provided that the required degree should be at the graduate level only.

22. The statutory provisions governing the qualifications and service conditions for the post of FSO are Sections 37, 91 and 94 of the FSS Act, which are extracted hereinbelow for ready reference:-

“37. Food Safety Officer.

(1) The Commissioner of Food Safety shall, by notification, appoint such persons as he thinks fit, having the qualifications prescribed by the Central Government, as Food Safety Officers for such local areas as he may assign to them for the purpose of performing functions under this Act and the rules and regulations made thereunder.

(2) The State Government may authorise any officer of the State Government having the qualifications prescribed under subsection (1) to perform the functions of a Food Safety Officer within a specified jurisdiction.

91. Power of Central Government to make rules.

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) salary, terms and conditions of service of Chairperson and Members other than ex officio Members under subsection (2) and the manner of subscribing to an oath of office and secrecy under sub-section (3) of section 7;

(b) qualifications of Food Safety Officer under sub-section (1) of section 37;

(c) the manner of taking the extract of documents seized under sub-clause (8) of section 38;

(d) determination of cases for referring to appropriate courts and time-frame for such determination under sub-section (4) of section 42;

(e) qualifications of Food Analysts under section 45;

(f) the manner of sending sample for analysis and details of the procedure to be followed in this regard under subsection (1) of section 47;

(g) the procedure to be followed in adjudication of cases under sub-section (1) of section 68;

(h) qualifications, terms of office, resignation and removal of Presiding Officer under sub-section (4), the procedure of appeal and powers of Tribunal under sub-section (5) of section 70;

(i) any other matter relating to procedure and powers of Tribunal under clause (g) of sub-section (2) of section 71;

(j) the fee to be paid for preferring an appeal to the High Court under subsection (1) of section 76;

(k) form and time of preparing budget under sub-section (1) of section 81;

(l) form and statement of accounts under sub-section (1) of section 83;

(m) the form and time for preparing annual report by Food Authority under sub-section (1) of section 84; and

(n) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules by the Central Government.

94. Power of State Government to make rules

(1) Subject to the powers of the Central Government and the Food Authority to make rules and regulations respectively, the State Government may, after previous publication and with the previous approval of the Food Authority, by notification in the Official Gazette, make rules to carry out the functions and duties assigned to the State Government and the State Commissioner of

Food Safety under this Act and the rules and regulations made thereunder.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) other functions of the Commissioner of Food Safety under clause (f) of sub-section (2) of section 30;

(b) earmarking a fund and the manner in which reward shall be paid to a person rendering assistance in detection of offence or apprehension of offender under section 95; and

(c) any other matter which is required to be, or may be prescribed or in respect of which provision is to be made by rules by the State Government.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses or where such State Legislature consists of one House, before that House.”

23. A bare perusal of Section 37(1) of the FSS Act, makes it clear that the appointment of a FSO is to be made by the Commissioner of Food Safety, and the

candidates should be having the qualification **“prescribed by the Central Government for such post.”** (emphasis supplied)

24. Under Sub-Section (2) of Section 37, the State Government has been given the limited power to appoint any other officer of the State Government, having the qualification prescribed under Sub-Section (1), to perform the functions of the FSO within a specified jurisdiction.

25. The plain language of the statute makes it clear that the prescription of qualification for the post of FSO is within the exclusive domain of the Central Government and the power to appoint is given to the Commissioner of Food Safety.

26. The language of Section 91(2)(b) of the FSS Act, fortifies the said conclusion, that the power to prescribe educational criterion for the post of FSO lies exclusively with the Central Government. The heading of the Section 91 is ‘Power of Central Government to make rules’. Sub-Section (2)(b) of Section 91 refers to the

qualifications of the FSO under Sub-Section (1) of Section 37. Neither in the Act nor in the Rules, has the State Government been given the authority to frame the rules to prescribe the qualifications for the post of FSO. Section 94 of the FSS Act, which talks about the power of the State Government to make rules is restricted in its operation and gives a limited role to the State Government to frame rules for carrying out the functions and duties assigned to the State Government and the State Commissioner of Food Safety under the FSS Act, the rules and the regulations made thereunder. Thus, the scope of powers to be exercised by the State Government is limited only to the extent of formulating the modalities for carrying out the functions and duties assigned to the FSO under the FSS Act. Clearly thus, the FSS Act does not permit the State Government to transgress into the field of prescribing the qualifications for the posts of FSO, which lies within the exclusive domain of the Central Government.

27. The Central Government, while exercising powers under Section 91 of the FSS Act notified the Food Safety

and Standard Rules, 2011¹⁰ wherein, the educational qualifications for the post of the FSO have been provided as under: -

“2.1.3: Food Safety Officer

1. Qualification: Food Safety Officer shall be a whole time officer and shall, on the date on which he is so appointed possesses the following:

- (i) a degree in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agricultural Science or Veterinary Sciences or Bio-Chemistry or Microbiology or Master’s Degree in Chemistry or degree in medicine from a recognized University, or
- (ii) any other equivalent/recognized qualification notified by the Central Government, and
- (iii) has successfully completed training as specified by the Food Authority in a recognized institute or Institution approved for the purpose.

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be appointed to be a Food Safety Officer under this rule.”

28. These very rules have been adopted by the State of Jharkhand *mutatis mutandis*. It is in this background,

¹⁰ Hereinafter being referred to as the ‘FSS 2011 Rules’.

that we are required to adjudicate whether the term 'degree' as mentioned in the rules and the recruitment notification can be restricted to "Bachelor's degree" or whether the same would cover in its ambit, the "Master's degree" as well.

29. The term 'degree' is defined under Section 22(3) the UGC Act, which states that the 'degree' means the 'Bachelor's Degree', 'Master's Degree' and the 'Doctorate Degree'. Thus, wherever the word 'degree' is used, unless a specific exclusion is provided, the same would include within its scope and ambit all three, 'Bachelor's Degree', 'Master's Degree' and a 'Doctorate Degree'.

30. In the present case, the respondents have disqualified the appellants on account of the fact that they hold Master's degree in different subjects whereas, as per Clause 2.1.3 of the FSS 2011 Rules (*supra*) and the subject advertisement, the educational qualification of a master's degree is only recognized in "Chemistry" subject, whereas for all the other subjects, only a graduation degree would be the qualifying criterion.

31. We feel that there is no ambiguity whatsoever in the FSS 2011 Rules or the subject advertisement which can exclude the Master's degree in subjects referred to in the preceding part of the Rule 2.1.3 of the FSS 2011 Rules (*supra*), other than Chemistry, as being a valid qualification. The special reference to the Master's degree is given in the said Rule, only for those who have acquired their degree course in Chemistry subject, for whom, the minimum qualifying criterion will be a Master's degree in Chemistry. However, so far as the other subjects are concerned, a person having any degree, be it graduation or post-graduation, would be equally qualified for the post in question.

32. Reading the language of the statutory provision in a literal sense and applying the golden rule of interpretation, this is the only logical and permissible interpretation. Hence, we have no hesitation in concluding that if a candidate, having undertaken a degree course in "Chemistry" subject, desires to apply for the post of FSO, he must possess a master's degree in that subject. However, if a candidate has taken college education in the subjects of food technology;

dairy technology; biotechnology; oil technology; agricultural science; veterinary science; biochemistry or microbiology, then such a candidate would be qualified for the FSO post, if he holds any one of the degrees, i.e., either graduation, post-graduation or doctorate degree in any of these subjects. There is no logic or rationale behind excluding the candidates having master's or a doctorate degree in these subjects from staking a claim to the post of FSO because such an interpretation would be totally unjust, arbitrary and unconstitutional.

33. It is also pertinent to note that, in order to remove the prevailing confusion, the Central Government has amended the 'Food Safety and Standard Rules' in the year 2022 by providing that the 'Bachelor's Degree' or a 'Master's Degree' or a 'Doctorate Degree' in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agriculture Science or Veterinary Sciences or Biochemistry or Microbiology or Master's Degree in Chemistry or Degree in Medicine would be a valid qualification for the post of FSO.

34. Thus, we have no hesitation in holding that the appellants, who possessed post-graduate degrees in subjects covered under Clause 2.1.3 of the FSS 2011 Rules (reproduced *supra*), were definitely and unquestionably qualified for the post of FSO under the subject advertisement. The judgment in the case of ***Parvaiz Ahmad Parry*** (*supra*), relied upon by the appellants, covers the controversy on all fours. Hence, the impugned judgments, dated 2nd August, 2023 of the Division Bench of the High Court and 30th June, 2023 of the learned Single Bench of the High Court, do not stand to scrutiny and are liable to be set aside.

Conclusion: -

35. Resultantly, the appeal is allowed in the following manner: -

- i. The impugned judgments rendered by the Division Bench and the Single Bench, holding that the appellants were not qualified for the post of FSO, are quashed and set aside.

- ii. The prayer made by the appellants to appear in the interview under the Advertisement No. 18 of 2023 dated 15th June, 2023 issued by JPSC, cannot be acceded to as they did not apply under this advertisement.
- iii. In order to do complete justice, and in case vacancies do not exist in the recruitment process 2016, then the respondents shall create supernumerary posts to accommodate the appellants who shall be allowed to partake in the recruitment process from the stage they were disqualified, i.e., from the interview stage. In case after undergoing interviews, the appellants succeed and are placed at par or higher in merit as compared to the last successful candidate in the particular category, they shall be offered appointment which shall be effective from the date of publication of the first select list in the recruitment process 2016. We further clarify that since the selected candidates were never impleaded and heard in the

proceedings before the High Court or in this Court, appropriate direction has to be given to ensure that their seniority position is not disturbed at this belated stage. It is, therefore, provided that the successful candidates from amongst the appellants shall be placed below the last candidate selected and appointed in the subject selection process.

- iv. It is further clarified that in case the appellants succeed and are offered appointment, they shall not be entitled to back wages. However, they shall be entitled to all service benefits on a notional basis.

36. Pending application(s) if any, stand disposed of.

.....J.
(VIKRAM NATH)

.....J.
(SANDEEP MEHTA)

**NEW DELHI;
MARCH 20, 2025.**