

**\* HONOURABLE SRI JUSTICE PULLA KARTHIK**

**+ WRIT PETITION No.44489 of 2022**

% Dated 05.03.2024

# S.Sunil Prem Kumar and others

Petitioners

VERSUS

\$ The State of Telangana, rep.by its Principal Secretary,  
Public Health and Family Welfare Department, State Secretariat,  
Hyderabad and others.

Respondents

! Counsel for petitioner : Sri Srikanth Chintala

^Counsel for respondents :Learned Government Pleader for Services-II for respondent No.1, Sri M.Ram Gopal Rao, learned Standing Counsel for respondent No.2, Sri Goda Siva, learned Senior Counsel representing Smt.Goda Ramalakshmi, learned counsel for respondent Nos.3 to 5.

<GIST:

> HEAD NOTE:

? Cases referred

1. (2008) 3 Supreme Court Cases 512
2. 2022 Livelaw (SC) 1035
3. 2007 (4) ALT 231 (D.B.)
4. 1998(2) SCC 332
5. AIR ONLINE 2018 SC 872

**HIGH COURT FOR THE STATE OF TELANGANA**

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WRIT PETITION No.44489 of 2022**Between:**

S.Sunil Prem Kumar and others

.. Petitioners

AND

The State of Telangana, rep.by its Principal Secretary,  
Public Health and Family Welfare Department, State Secretariat,  
Hyderabad and others.

.. Respondents

Date of Judgment Pronounced: 05.03.2024

**SUBMITTED FOR APPROVAL:****HONOURABLE SRI JUSTICE PULLA KARTHIK**

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| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | YES/NO |
| 2. | Whether the copies of judgment may be marked to Law Reports/Journals?      | YES/NO |
| 3. | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | YES/NO |

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**JUSTICE PULLA KARTHIK**

**THE HON'BLE SRI JUSTICE PULLA KARTHIK****WRIT PETITION No.44489 of 2022****ORDER:**

This writ petition is filed seeking the following prayer:

“ ... to issue an order Writ or direction more particularly in the nature of Certiorarified Mandamus or any other appropriate Writ To declare the selection list dated 1.12.2022 issued by the 2<sup>nd</sup> respondent in selecting the candidates who does not have CRA as per the condition stipulated in the notification No 59/2017 dated 08.11.2017 in contrary to the said notification as illegal arbitrary unconstitutional against the principles of natural justice and violative of Article 14 and 21 of the Constitution and coupled with flagrant violation of the notification No 59/2017 Dated 08.11.2017.

ii) To call for the records or orders passed by the 2<sup>nd</sup> respondent enabling the candidates other than who has Certificate of Radiology Assistant CRA under the premise of Expert Committee report after the issuance of notification no 59/2017 dated 08.11.2017 which was informed to the petitioners as an answer to the RTI application dated 29.05.2019 and issuing selection list in accordance with the said proceedings by enabling ineligible candidates into the selection zone vide dated 01.12.2022 as illegal arbitrary against the principles of natural justice violative of article 14 and 21 of the constitution of India and against the notification no 59/2017 dated 08.11.2017 issued by the 2<sup>nd</sup> respondent and to declare the said selection list is running contrary to the notification no 59/2017.

iii) To declare the action of respondent no 2 in not considering the representations of the petitioners dated 12.03.2019 and 16.03.2021 as illegal arbitrary and against the principles of natural justice and violative of Article 14 and 21 of the Constitution of India.

iv) To consequently direct the 2<sup>nd</sup> respondent to strictly adhere to the notification no 59/2017 dated 08.11.2017 and recall and revise the selection list dated 01.12.2022 by excluding the candidates without CRA and further direct the respondents to declare the petitioners are selected to the said posts in accordance with the notification and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and in the interest of justice.”

2. Heard Sri Srikanth Chintala, the learned counsel appearing for the petitioner, Sri Goda Siva, the learned Senior Counsel representing Smt.Goda Ramalakshmi, the learned counsel appearing for respondent Nos. 3 to 5, the learned Government Pleader for Services-II appearing for respondent No.1 and Sri M.Ram Gopal Rao, the learned Standing Counsel for respondent No.2-Telangana State Public Service Commission.

3. It has been contended by the learned counsel appearing for the petitioners that in response to the notification issued by respondent No.2 vide Notification No.59 of 2017, dated 08.11.2017, the petitioners have applied for the post of Radiographer in Director of Public Health and Family Welfare and appeared for the written test with hall ticket Nos.179001097, 1759000226 and 1759000385 respectively and petitioner No.1 was placed at Sl.No.138, petitioner No.2 at Sl.No.45 and petitioner No.3 at Sl.No.44 in the merit list published on 03.01.2019. But, surprisingly, the respondent No.2 published a note dated 09.02.2019 stating that request of certain persons for adding weightage marks was considered and one week before the certification i.e. before 26.02.2019 and released another "Revised Merit List" with Qualification and Service Weightage" in which, the names of unofficial respondents were shown above the names of the petitioners herein. Therefore, the petitioners went down in the revised merit list. However, the petitioners were shown up in the Provisional List of candidates for verification of certificates @ 1:3 ratio on 22.02.2019. Further, aggrieved by the revised

merit list, petitioner Nos.2 and 3 have submitted representations on 02.03.2019, 12.03.2019 and 16.03.2019 respectively along with other applicants requesting respondent No.2 to rectify the merit list and consider their applications based on the notification.

4. It is further submitted that as per the information obtained by the 3<sup>rd</sup> petitioner under Right to Information Act, wherein the candidates without Certificate in Radiography Assistant (C.R.A) qualification was considered as per G.O.Ms.No.282, GA(SER.A) Dept., dated 20.09.2003 under the premise of expert committee recommendation without furnishing any proof to that effect and contrary to the notification. Further, respondent No.2 failed to issue any corrigendum notification and failed to invite objections/submit additional qualifications of any other applicant before releasing the merit list or the selection lists, which is against the settled principle of law that the Rules can't be changed once the game starts and the Adhoc Rule cannot substitute the General Rules. Hence, the respondents are not justified in excluding the petitioners from the final selection list and including the unofficial respondents in the selected list basing on the Adhoc Rule contrary to the notification. Therefore, the action of the respondents is illegal, arbitrary and violative of Article 14 of the Constitution of India. In support of his contentions, he relied on the judgments of Apex Court in *K.Manjusree v. State of Andhra Pradesh*<sup>1</sup>, *The State of Uttar Pradesh v. Karunesh Kumar*<sup>2</sup>.

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<sup>1</sup> (2008)3 Supreme Court Cases 512

<sup>2</sup> 2022 Livelaw (SC) 1035

5. *Per contra*, Sri Goda Shiva, the learned Senior Counsel appearing for respondent Nos.3 to 5 submits that respondent Nos.3 to 5 have obtained PG Diploma in Radiography & Imaging Technology, X-Ray Technician (XRT), BSC Medical Imaging Technology respectively and fulfilled the qualifications read with the Special Rule issued by the State of Telangana with *infra* applied to the notification issued by respondent No.2 vide Notification No.59 of 2017, dated 08.11.2017, and participated in the selection process and secured high marks. Basing on the same, they were placed in the final selection list, dated 01.12.2022. Further submitted that as per clause 4 of the notification, dated 08.11.2017, the educational qualifications required to be possessed by a person eligible for the post of Radiographer is CRA (Certificate of Radiology Assistant) and also added *provisio* a) the preference shall be given to a candidate who in addition, possesses a degree of any recognized University with Physics as main subject; b) Registered with Para Medical Board AP/TS. Respondent Nos.3 to 5 have obtained P.G. Diploma in Radiography & Imaging Technology, X-Ray Technician (XRT), BSC Medical Imaging Technology respectively and their qualifications are higher than the qualification prescribed in the notification. Therefore, the qualifications possessed by respondent Nos.3 to 5 have been considered by the Expert committee and opined that the said qualifications are higher than the CRA prescribed in the notification and recommended that the eligibility of candidates with the above qualifications may be considered for the post of Radiographer.

Further, the constitution of the Committee itself would indicate that it is indeed an expert in the field, which can determine the equivalence of the qualifications obtained by respondent Nos.3 to 5 vis-à-vis the qualifications prescribed in the notification. In support of his contentions, he relied on the judgment of High Court of Judicature at Hyderabad in *Osmania University rep.by its Registrar, Hyderabad v. A.Sreenaiah*.<sup>3</sup>

6. Learned Standing Counsel for respondent No.2-Public Service Commission submits that as per the qualifications prescribed in the notification, it can be construed that the eligibility for the post of Radiographer is possessing of CRA is pre-requisite qualification, however, possessing of higher qualification or equivalent qualification to CRA is no bar for selection. Further, the Society of Indian Radiographer (SIR) and many other than CRA qualified candidates have approached the respondent-Commission with a request that the candidates with higher qualification than prescribed qualification may also be allowed to participate in the selection process for the post of Radiographers. Hence, as per the Rules, the selection was made considering the candidates with higher/equivalent qualifications are within the conditions stipulated in G.O.Ms.No.282, dated 20.09.2003. Therefore, there is no need to issue corrigendum to the notification as alleged by the petitioners. In support of his contentions, learned counsel relied on the judgments of Apex Court

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<sup>3</sup> 2007(4) ALT 231 (D.B.)

in *Arun Tewari v. Zila Mansavi Shikshak Sangh*<sup>4</sup>, *Zahoor Ahmad Rather v. Sheikh Imtiyaz Ahmad*<sup>5</sup>.

7. This Court has taken note of the submissions made by the respective Counsel.

8. Admittedly, respondent No.2 issued Notification No.59 of 2017, dated 08.11.2017 inviting the applications for the post of Radiographer in Director of Public Health and Family Welfare, wherein Educational Qualifications were prescribed at para No.4 of the Notification, which reads as under:

Applicants must possess the qualifications from a recognized University/institution as detailed below or equivalent thereto, as specified in G.O.Ms.No.166 Health Medical and Family Welfare (B1) Dept., Dated 09.09.2017 and indented by the department as on the Date of Notification.

a) Must possess CRA (Certificate of Radiology Assistant)

Provided that preference shall be given to a candidate who in addition, possess a degree of any recognized University with Physics as main subject.

b) Registered with Para Medical Board AP/TS.

**PARA VIII: PROCEDURE OF SELECTION:**

**THE SELECTION OF CANDIDATES FOR APPOINTMENT TO THE POST IS AS FOLLOWS:**

THE FINAL SELECTION OF THESE POSTS WILL BE BASED ON 70 WEIGHTAGE (POINTS) IN WRITTEN EXAMINATION AND 30 WEIGHTAGE (POINTS) FOR THE GOVT.SERVICE (EXPERIENCE) PUT TOGETHER.

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<sup>4</sup> 1998(2) SCC 332

<sup>5</sup> AIR ONLINE 2018 SC 872



SL.No.	Particulars	Weightage (Points)
1.	Written examination	70
2.	Experience	30
	Total	100

The criteria for awarding Weightage (Marks) for Govt.Service (Experience) is as follows:

	CRITERIA	
Service Consists of	Weightage of experience of Govt.Service	
	i) Six Months in Tribal Area	4
	ii) Six Months in Rural Area	2
	iii) Six months in Urban Area (Corporations & Grade-I Municipalities)	1

As per the Selection of procedure, it consists of Weightage of total 100 points. In which maximum 70 points will be given to Written Examination conducted for 150 marks and maximum 30 points will be given to Experience of the candidates based on their Government Service.

#### **PARA-V: IMPORTANT LEGAL PROVISIONS GOVERNING THE RECRUITMENT PROCESS:**

1...

2. **Recruitments:** The Recruitment will be processed as per this Notification and also as per the Rules and Instructions issued by the Government and also as decided by the Commission from time to time in terms of respective Special Rules/Adhoc Rules governing the Recruitment vide G.O.Ms.No.565 M&H (R1) Dept, Dt.27.08.1979 read with G.O.Ms.No.166 Health Medical and Family Welfare (B1) Dept, Dated 09.09.2017 and G.O.Rt.No.902, Health, Medical & Family Welfare (B1) Dept., Dt.24.10.2017 and as per Government orders issued from time to time, and other related G.Os, Rules etc., applicable in this regard.

9. From the paragraphs enunciated above, it is clear that the qualifications prescribed for the post of Radiographer are as under:

a) Must possess CRA (Certificate of Radiology Assistant)

provided that preference shall be given to a candidate who in addition, possesses a degree of any recognized University with Physics as main subject.

c) Registered with Para Medical Board AP/TS.

10. The case of the petitioners is that they possessed the qualification of Certificate of Radiology Assistant (C.R.A.) and eligible for the post of Radiographer. Hence, they applied to the post of Radiographer and got secured 36.981, 45.524 and 46.029 marks respectively and their names were included in the merit lists dated 03.01.2019, wherein petitioner No.1 was placed at Sl.No.138, petitioner No.2 at Sl.No.45 and petitioner No.3 at Sl.No.44. Thereafter, respondent No.2 has revised the provisional selection list on 26.02.2019 showing the names of other persons above the names of the petitioners. The contention of the petitioners is that the recruitment must be done in accordance with the Notification No.59 of 2017, dated 08.11.2017, and respondent Nos.1 and 2 cannot deviate the notification. In this context, it is pertinent here to note the proposition of law laid down by the Apex Court in K.Manjusree's case (1 supra) relied on by the learned counsel for the petitioners.

***Questions for consideration***

**17.** On the contentions urged, the following questions arise for consideration:

(i) What was the procedure (method and manner of selection) prescribed by the Administrative Committee for filling the posts advertised on 28-5-2004?

(ii) Whether the list prepared by the Interview Committee and approved by the Administrative Committee suffered from any error, irregularity or illegality?

(iii) Whether the procedure adopted by the Full Court in preparing the fresh selection list by applying the requirement of minimum marks for interview also, is legal and valid?

**22.** The Administrative Committee of the High Court (Chief Justice and five Senior Judges) as also the Interview Committee consisting of five Judges (the Chief Justice and four other Judges) all along intended, understood and proceeded on the basis with reference to the current selection that minimum percentage was applicable only to written examination and not for interviews. This is evident from the manner in which interviews were conducted and merit list and selection list were prepared by the Interview Committee and approved by the Administrative Committee. This shows that the Interview Committee conducted the interviews on 13-3-2006, 14-3-2006, 16-3-2006, 17-3-2006, 18-3-2006, 20-3-2006, 24-3-2006 and 31-3-2006 on the understanding that there were no minimum marks for interviews, that the marks awarded by them in the interview would not by itself have the effect of excluding or ousting any candidate from being selected, and that marks awarded by them in the interviews will merely be added to the written examination marks, for preparation of the merit list and selection list. We are referring to this aspect, as the manner of conducting interviews and awarding marks in interviews, by the five members of the interviewing committee would have been markedly different if they had to proceed on the basis that there were minimum marks to be secured in the interview for being considered for selection and that the marks awarded by them would have the effect of barring or ousting any candidate from being considered for selection. Thus, the entire process of selection—from the stage of holding the examination, holding interviews and finalising the list of candidates to be selected—was done by the Selection Committee on the basis that there was no minimum marks for interview. To put it differently the game was played under the rule that there was no minimum marks for the interview.

***Re: Question (iii)***

**25.** When the Administrative Committee placed the merit lists and selection list before the Full Court, apparently objections were raised on two grounds. One related to the failure to provide the minimum of 50%, 40% and 35% marks for interviews, on the interpretation of Resolution dated 30-11-2004 read with earlier Resolutions dated 24-7-2001 and 21-2-2002. The second objection was that even though the Administrative Committee had resolved that the marks for written examination would be 75 and interview would be 25, at the time of tabulating the marks, the marks secured (out of 100 marks) in the written examination had been taken into account without scaling it down with reference to a maximum of 75 marks. The Full Court, therefore, appointed a sub-committee of

two Judges to examine the matter and prepare a fresh merit list and selection list. The sub-committee examined the matter and submitted a revised merit list by incorporating two changes. Firstly, while tabulating the marks, it scaled down the marks secured by the candidates in the written examination with reference to a maximum of 100 marks, in proportion to a maximum of 75 marks so that the final marks were with reference to a base of 75 marks for written examination and 25 marks for interview as resolved on 30-11-2004. Secondly, it applied the minimum percentage of 50%, 40% and 35% for OC, BC, SC/ST even in regard to interviews and consequently, eliminated those who secured less than the minimum in the interview from the process of selection. The final selection list was prepared with reference to the fresh merit list prepared by incorporating the said two changes.

**27.** But what could not have been done was the second change, by introduction of the criterion of minimum marks for the interview. The minimum marks for interview had never been adopted by the Andhra Pradesh High Court earlier for selection of District & Sessions Judges, (Grade II). In regard to the present selection, the Administrative Committee merely adopted the previous procedure in vogue. The previous procedure as stated above was to apply minimum marks only for written examination and not for the oral examination. We have referred to the proper interpretation of the earlier Resolutions dated 24-7-2001 and 21-2-2002 and held that what was adopted on 30-11-2004 was only minimum marks for written examination and not for the interviews. Therefore, introduction of the requirement of minimum marks for interview, after the entire selection process (consisting of written examination and interview) was completed, would amount to changing the rules of the game after the game was played which is clearly impermissible. We are fortified in this view by several decisions of this Court. It is sufficient to refer to three of them — *P.K. Ramachandra Iyer v. Union of India* [(1984) 2 SCC 141 : 1984 SCC (L&S) 214] , *Umesh Chandra Shukla v. Union of India* [(1985) 3 SCC 721 : 1985 SCC (L&S) 919] and *Durgacharan Misra v. State of Orissa* [(1987) 4 SCC 646 : 1988 SCC (L&S) 36 : (1987) 5 ATC 148] .

**28.** In *Ramachandra Iyer* [(1984) 2 SCC 141 : 1984 SCC (L&S) 214] this Court was considering the validity of a selection process under the ICAR Rules, 1977 which provided for minimum marks only in the written examination and did not envisage obtaining minimum marks in the interview. But the Recruitment Board (ASRB) prescribed a further qualification of obtaining minimum marks in the interview also. This Court observed that the power to prescribe minimum marks in the interview should be explicit and cannot be read by implication for the obvious reason that such deviation from the Rules is likely to cause irreparable and irreversible harm. This Court

held that as there was no power under the Rules for the Selection Board to prescribe the additional qualification of securing minimum marks in the interview, the restriction was impermissible and had a direct impact on the merit list because the merit list was to be prepared according to the aggregate marks obtained by the candidates at written test and interview. This Court observed: (SCC p. 181, para 44)

“44. ... Once an additional qualification of obtaining minimum marks at the viva voce test is adhered to, a candidate who may figure high up in the merit list was likely to be rejected on the ground that he has not obtained minimum qualifying marks at viva voce test. To illustrate, a candidate who has obtained 400 marks at the written test and obtained 38 marks at the viva voce test, if considered on the aggregate of marks being 438 was likely to come within the zone of selection, but would be eliminated by ASRB on the ground that he has not obtained qualifying marks at viva voce test. This was impermissible and contrary to Rules and the merit list prepared in contravention of Rules cannot be sustained.”

**29.** In *Umesh Chandra* [(1985) 3 SCC 721 : 1985 SCC (L&S) 919] the scope of the Delhi Judicial Service Rules, 1970 came up for consideration. The Rules provided that those who secured the prescribed minimum qualifying marks in the written examination will be called for viva voce; and that the marks obtained in the viva voce shall be added to the marks obtained in the written test and the candidate's ranking shall depend on the aggregate of both. 27 candidates were found eligible to appear for viva voce on the basis of their having secured the minimum prescribed marks in the written examination. The final list was therefore, expected to be prepared by merely adding the viva voce marks to the written examination marks in regard to those 27 candidates. But the final list that was prepared contained some new names which were not in the list of 27 candidates who passed the written examination. Some names were omitted from the list of 27 candidates who passed the written examination.

**32.** In *Maharashtra SRTC v. Rajendra Bhimrao Mandve* [(2001) 10 SCC 51 : 2002 SCC (L&S) 720] this Court observed that “the rules of the game, meaning thereby, that the criteria for selection cannot be altered by the authorities concerned in the middle or after the process of selection has commenced”. In this case the position is much more serious. Here, not only the rules of the game were changed, but they were changed after the game had been played and the results of the game were being awaited. That is unacceptable and impermissible.

**36.** The Full Court however, introduced a new requirement as to minimum marks in the interview by an interpretative process which is not warranted and which is at variance with the interpretation adopted while implementing the current selection process and the earlier selections. As the Full Court approved

the Resolution dated 30-11-2004 of the Administrative Committee and also decided to retain the entire process of selection consisting of written examination and interviews it could not have introduced a new requirement of minimum marks in interviews, which had the effect of eliminating candidates, who would otherwise be eligible and suitable for selection. Therefore, we hold that the action of the Full Court in revising the merit list by adopting a minimum percentage of marks for interviews was impermissible.

### **Conclusion**

**38.** We, therefore, find that the judgment of the Division Bench of the High Court has to be set aside with a direction to the A.P. High Court to redraw the merit list without applying any minimum marks for interview. The merit list will have to be prepared in regard to 83 candidates by adding the marks secured in written examination and the marks secured in the interview. Thereafter, separate lists have to be prepared for each reservation category and then the final selection of 10 candidates will have to be made. The scaling down of the written examination marks with reference to 75 instead of 100 is however, proper.

**41.** In view of the above, we dispose of the matter as follows:

(i) The applications for impleadment [IAs Nos. 2, 3, 4 and 5 filed in SLP (C) No. 18330 of 2006] are allowed.

(ii) The civil appeal filed by K. Manjusree is allowed and the judgment of the High Court is set aside. The High Court is directed to prepare a fresh merit list in regard to 83 candidates with reference to their marks in written test and interview without applying any minimum marks for interviews and thereafter finalise the selections in accordance with law.

(iii) The appointments of five candidates in pursuance of our interim order need not be disturbed. The said five candidates will find a place in the selection list even when it is redone, though their ranks/reservation category may vary. Their rank and seniority will depend upon the fresh selection list of ten candidates to be drawn and not on the appointment made in pursuance of the interim order.

(iv) WPs (C) Nos. 51 and 97 of 2007 are dismissed.

(v) The application for permission to file SLP by Thirumala Devi is rejected. As a consequence SLPs (CC) Nos. 7188-79 of 2007 are rejected.

11. In view of the proposition of law laid down by the Apex Court supra, it is well settled that the Rules cannot be changed after commencement of recruitment and the selection should be done in accordance with the notification only. In the present case, admittedly, Notification No.59 of 2017 was issued by respondent No.2 for the post of Radiographer on 08.11.2017, wherein the Educational Qualifications were prescribed at para No.4 as under:

- a) **Must possess CRA (Certificate of Radiology Assistant) and there is proviso that preference shall be given to a candidate who in addition, possesses a degree of any recognized University with Physics as main subject.**
- b) **Registered with Para Medical Board AP/TS.**

12. Therefore, respondent No.2 has to select the candidates for the post of Radiographer, who possess the said educational qualifications only, it does not alter the criteria for selection without issuing any corrigendum. But contrary to that, respondent No.2 released Revised Merit list dated 09.02.2019 showing the names of unofficial respondents above the petitioners. Therefore, it is apparent that the selection was made in deviation of Notification No.59 of 2017, dated 08.11.2017, by considering the representations of the unofficial respondents and others and the so-called Expert Committee opinion. According to respondent No.2, the Society of Indian Radiographers and other than CRA qualified candidates requested the respondent-Commission that the candidates with higher qualification than prescribed qualification may also be allowed to participate in the selection process for the post of

Radiographers. On examination of such request, the respondent-Commission has constituted an Expert Committee headed by the Professors and Heads of Radiology Department of Osmania and Gandhi Medical Colleges, wherein the Committee has given eligibility to all higher qualifications and equivalent qualifications to CRA course. Further, the Committee has equated the courses of Diploma in X-Ray Technology and X-Ray Technician Course. Accordingly, the respondent-Commission has accepted the recommendations of the Expert Committee and admitted such qualifications. Respondent No.2 relied on G.O.Ms.No.282, General Administration (SER.A) Department, dated 20.09.2003, wherein Adhoc Rules are issued for appointment of candidates possessing higher qualification than the prescribed qualification. As such, there is no need to issue any corrigendum to the notification for considering the candidates with higher/equivalent qualifications. I have perused the judgments relied on by learned counsel for respondent No.2.

13. In *Arun Tewari's case (4 supra)*, the Apex Court held as under:

“A higher qualification which is prescribed for a particular scheme cannot be considered as violative of Article 14. When candidates with higher qualifications are available, choosing them instead of candidates with inferior qualifications is not violation of Article 14 or 16.”

In *Zahoor Ahmad Rather's case (5 supra)*, the Apex Court held as under:

“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.”

14. The ratio laid down in the said judgments has no application to the facts and circumstances of the present case.

15. From the above, it is clear that admittedly, the selections have been made by respondent No.2 considering the qualifications of respondent Nos.3 to 5 without issuing any corrigendum to the Notification No. 59 of 2017, dated 08.11.2017, which is contrary to the settled principles of law. According to respondent Nos.3 to 5, they are having higher qualification than the qualification prescribed in the Notification. Therefore, they were selected on the recommendation made by the Expert Committee. As per G.O.Ms.No.282, General Administration (SER.A) Department, dated 20.09.2003, Adhoc Rules are issued for appointment of candidates possessing higher qualification than the prescribed qualification. Adhoc Rule reads as under:

#### **ADHOC RULE**

“Notwithstanding anything contained in the Andhra Pradesh State and Subordinate Service Rules or Special Rules or any other rule governing the post for the Direct Recruitment the candidate who possesses higher qualification than the prescribed qualification and the candidate with higher qualification without the prescribed qualification shall also be considered for selection along with candidates who have the prescribed qualification only.

As per the said G.O. the candidates who possess higher qualification than the prescribed qualification and higher qualification without the prescribed qualification can be considered for selection along with the candidates who have prescribed qualification only as per

the notification. The same was reiterated in G.O.Ms.No.565 M&H (R1) Dept, Dt.27.08.1979 read with G.O.Ms.No.166 Health Medical and Family Welfare (B1) Dept, Dated 09.09.2017, wherein the educational qualification prescribed for Radiographer is that:

a) *a candidate must possess CRA*

*Provided that preference shall be given to a candidate who in addition, possesses a degree of any recognized University with Physics as main subject.*

b) Registered with Para Medical Board AP/TS.

16. Therefore, as per G.O.Ms.No.565, dated 27.08.1979, and G.O.Ms.No.166, dated 09.09.2017, and Notification No.59 of 2017, dated 08.11.2017, the candidate must possess CRA and preference shall be given to a candidate who in addition possess a degree of any recognized University with Physics as main subject. But, respondent No.2, basing on G.O.Ms.No.282, dated 20.09.2003, without there being any mention of the same in the Notification No.59 of 2017, dated 08.11.2017, after commencement of the recruitment process and drawing up of merit list and without issuing any corrigendum to the notification, selected respondent Nos.2 to 5 in deviation of the selection criteria enunciated in the notification. As per the law laid down by the Apex Court in *K.Manjusree's* case stated supra, the Rules of the game, meaning thereby, that the criteria for selection cannot be altered by the authorities concerned in the middle or after the process of selection has commenced. Therefore, the selection of respondent Nos.3 to 5 vide

Selection list dated 01.12.2022 is contrary to the settled principles of law and the same is liable to be set aside.

17. In view of the above, the Writ Petition is allowed. The selection of unofficial respondent Nos. 3 to 5 vide final Selection list, dated 01.12.2022, is hereby set aside. Respondent Nos.1 and 2 are directed to fill-up the vacancies strictly in accordance with the Notification No.59 of 2017, dated 08.11.2017.

Miscellaneous petitions, pending, if any, in this writ petition shall stand closed. No costs.

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**PULLA KARTHIK, J**

05.03.2024  
Nvl