

***Before Rajbir Sehrawat, J.***

**AMARBIR SINGH SANDHU—Petitioner**

*versus*

**UNION OF INDIA AND OTHERS—Respondents**

**CWP No. 22271 of 2020**

January 08, 2021

***Constitution of India, 1950 – Arts. 226 and 227 – Recruitment – Armed services – Petitioner’s candidature for Commissioned Officers in Group A in Indian Army rejected – same qualification but different nomenclature – Respondents directed to take a specific call on equivalence.***

*Held that*, this Court finds itself under a duty to direct the respondents to take a specific call upon the matter and to take a specific, unbiased and conscious decision qua the equivalence of the degree of ‘Electronic Communication System Engineering’ and the degree in ‘Electronics and Communication Engineering’ qua the present recruitment, as well as, qua the future recruitments.

(Para 13)

*Further held that*, although, the recruiting respondents No.1 and 2 may be directed to consider the equivalence of the degree of the petitioner with the degree of ‘Electronics and Communication Engineering’, however, that by itself would not confer any additional and immediate right upon the petitioner to seek joining of the course immediately without recruiting respondents No.1 and 2 having taken a conscious decision qua such equivalence.

(Para 14)

*Further held that*, accordingly, the present petition is disposed of with a direction to the respondents No.1 and 2 to take a specific, unbiased and conscious decision on equivalence of the degree in ‘Electronics and Communication Engineering’ and the degree in ‘Electronics Communication System Engineering’ keeping in view the regulations of the AICTE and the course contents as prescribed by the AICTE and the University-respondent No.3. Such a conscious decision shall be taken qua the petitioner, as well as, qua the future recruitments in the stream of ‘Electronics and Communication Engineering’ so as to avoid any further inconvenience to the similarly situated candidates in future.

(Para 15)

Navdeep Singh, Advocate  
*for the petitioner.*

Gaurav Pathak, Advocate  
for respondent Nos.1 & 2.

Ekjot Sandhu, Advocate  
for respondent No.3.

**RAJBIR SEHRAWAT, J. oral**

**CM Nos.238-CWP and 239-CWP of 2021**

(1) Applications are allowed as prayed for.

(2) Written statement filed on behalf of respondent No.2 is taken on record.

**Main Case**

(3) Petitioner has filed this petition under article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the impugned order dated 08.12.2020 (Annexure P-5) whereby the candidature of the petitioner for 55<sup>th</sup> Short Service Commission (Technical) (October 2020) has been cancelled, with a further prayer that the respondents No.1 & 2 be directed to depute the petitioner for training of the abovesaid batch.

(4) The brief facts as given in the writ petition are that the recruiting respondents No.1 and 2 advertised vacancies for recruitment of Commissioned Officers in Group A in Indian Army through Short Service Commission (Technical). The advertisement to this effect was issued, which is attached as Annexure P-1 with the present petition. As per the advertisement the applications were invited through online mode. The petitioner is having a degree in 'Electronics Communication Systems Engineering'. There were 21 vacancies for this stream of Engineering in the above-said recruitment process. Considering himself to be eligible for the said post, the petitioner applied pursuant to the said advertisement. The petitioner participated in the process of selection through the process conducted by Service Selection Board. The Service Selection Board had found the petitioner suitable and had recommended the name of the petitioner for Commission Training. However, subsequently the Directorate General of Recruiting (TGC Entry) intimated the petitioner vide his letter dated 08.12.2020 that

since the petitioner was not having degree in 'Electronics and Communication Engineering', therefore, he was not eligible for the post advertised by the Directorate. It was further intimated that the petitioner had wrongly claimed the equivalence with the degrees mentioned in the equivalence column of the advertisement; because the degree of the petitioner was not mentioned even in the equivalence column, as mentioned in the advertisement itself. Accordingly, the candidature of the petitioner for the said 55<sup>th</sup> Short Service Commission (Technical) (October, 2020) was cancelled. The petitioner has challenged the said cancellation of his candidature.

(5) The respondents have filed their written statement wherein they have relied upon the Instructions dated 10.02.2014, whereby the Directorate General of Recruitment had considered the aspect of the equivalence of the degrees in various streams of engineering for which the Army was making recruitment in technical branches, and have submitted that these instructions provide the streams of Engineering, the specified degrees which are required for recruitment in the said streams and also mention the equivalent degrees which are recognized by the Directorate as equivalent to the main degrees in the concerned streams. The degree of the petitioner does not find mentioned either in the column of main degrees or in the column of equivalent degrees. Hence the petitioner has rightly been declared ineligible for the said recruitment.

(6) Arguing the case, learned counsel for the petitioner has submitted that although the degree of the petitioner is in 'Electronics Communication Systems Engineering', however, this is only a difference of nomenclature. The syllabus for the degree of 'Electronics and Communication Engineering' and the degree of 'Electronics Communication Systems Engineering' are the same. Therefore, the All India Council for Technical Education (for short 'AICTE') which regulate the education for the recognized degrees in the technical field, has jointly mentioned the degree of 'Electronics and Communication Engineering' and the degree of 'Electronics Communication Systems Engineering' at the same entry. Accordingly, it is submitted by the counsel for the petitioner that the petitioner is not even claiming the equivalence as such, rather, his degree is a degree in the field of 'Electronics and Communication Engineering' only as specified by AICTE. It is further submitted that the University granting the degree to the petitioner itself has clarified vide letter dated 31.12.2020, attached at Annexure R-3/2 with the written statement filed by the respondent-

University, that the degree of the petitioner is equivalent to the degree in 'Electronics and Communication Engineering' in all respects. Accordingly, it is submitted by the counsel for the petitioner that the claim of the petitioner has wrongly been rejected. The respondents have not even considered the equivalence of the degree of the petitioner specifically. They should at least, consider the same. It is also submitted by the counsel that although the training course, as such, is starting w.e.f. 11.01.2021, however, as per the instructions issued by the Directorate of Recruitment of Army vide letter dated 11.09.1996, there is a provision for late induction to the training course by 21 days; in case of certain situations. Accordingly, even if the respondents are having any doubt qua the equivalence of the degree of the petitioner then they can take a conscious decision thereon so as to settle the claim of the petitioner and also qua the degree obtained by the petitioner; as such.

(7) Learned counsel for respondents No.1 and 2, the employer, has submitted that they had clarified the conditions of eligibility right from the day one. The petitioner was not left with any doubt whatsoever qua the requirements of the degree, as well as, qua the equivalent degrees which could be recognized by them for the purpose of the present recruitment. Since the degree obtained by the petitioner is not covered either in the specific degree required for the Communication stream of the Army; nor is the same finding mention in the degrees recognized as equivalent by them and as prescribed in the advertisement itself, therefore, the candidature of the petitioner has rightly been rejected. It is further submitted by the counsel that the respondents No.1 and 2 cannot go on the process of determining equivalence in each and every case by keeping it an open ended scheme lest the process of recruitment should be stalled every time. To avoid such a situation, the respondents have already prescribed the equivalent degrees as well. Hence, the petitioner cannot claim any advantage of equivalence of his degree, the same being outside the scope of the degrees prescribed as equivalent by the respondents. Counsel has further submitted that the respondent No.3-University, although, has declared the degree of the petitioner as equivalent to the degree of 'Electronics and Communication Engineering', however, the recruiting respondents are not bound by any such equivalence determined by the said University. It is for the recruiting respondents who are to determine the equivalence of the degrees keeping the job profiles and requirements of the working of the concerned branches of the Indian Army, and the said exercise has already been conducted by these

respondents. However, the counsel for the recruiting respondents No.1 and 2 has not denied the fact that the name of the petitioner has been recommended by the Short Service Board for commission training and that there is a provision for late induction to the training at the academy in certain situations, by 21 days from the start of the training of the concerned course.

(8) Mr. Ekjot Sandhu, Advocate, appearing on behalf of respondent No.3, the University from which the petitioner has obtained the degree has submitted that the Academic Council of the University has considered the matter and came to a positive conclusion that the degree of 'Electronics Communication Systems Engineering' being granted by the University is equivalent to the degree of 'Electronics and Communication Engineering' in all respects. Accordingly, the degree of the petitioner was also certified to be the equivalent degree. Although, the respondents- University is not concerned with the selection process in question, however, University still stands by the expert opinion given to it by the Academic Council that the said degree of 'Electronics and Communication Systems Engineering' is equivalent to the degree of 'Electronics and Communication Engineering' as granted by any other recognized University and as recognized by AICTE.

(9) Having considered the respective arguments of the counsels for the parties, this Court finds that the recruiting respondents No.1 and 2 have prescribed the academic qualifications required for the present recruitment in the advertisement issued by them. The relevant clause of the advertisement is reproduced herein below:

“3. **Vacancies**. Candidates must note that only the Engineering streams and their acceptable equivalent streams, strictly as notified in the table below, will be accepted. Candidates with degrees in any other Engineering stream(s) are not eligible to apply. Variation between the nomenclature of Engineering stream as given on the degree parchment/marksheet and that submitted by the candidate in his online application will result in cancellation of candidature.

**(a) For SSC(Tech)-55 Men.**

Engineering Streams (listed in AI)	Equivalent Stream (AICTE appd)	Vacancy
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Civil	Civil Engineering, Civil Engineering (Structural Engineering), Structural Engineering	42
Mechanical	Mechanical Engineering, Mechanical (Mechatronics) Engineering, Mechanical and Automation Engineering	14
Electrical/ Electrical and Electronics	Electrical Engineering, Electrical Engineering (Electronics and Power), Power System Engineering, Electrical and Electronics Engineering.	17
Computer Sc & Engg/Computer Technology/ Information Tech/ M.Sc Computer Sc	Computer Engineering, Computer Science, Computer Science Engineering, Computer Science & Engineering, Information Science & Engineering.	58
Electronics & Telecom/ Telecommunica tion/ Electronics & Comn/Satellie Communication	Electronics and Telecommunication Engineering, Telecommunication Engineering, Electronics and Communication Engineering, Electronics and Electrical Communication Engineering	21
Electronics	Power Electronics & Drives	02
Opto Electronics		02
Fibre Optics		02
Micro Electronics & Microwave		02
Production Engg	Production Engineering, Product Design & Development, Production Engineering & Management	02
Architecture	Architecture Engineering	03
Building Construction Technology		02
Aeronautical	Aeronautical Engineering	2
Ballistics		2
Avionics		2
Aerospace		2

<b>Total</b>	<b>175</b>
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**(b) For SSCW(Tech)-26**

<b>Engineering Streams (listed in AI)</b>	<b>Equivalent Stream (AICTE appd)</b>	<b>Vacancy</b>
Civil	Civil Engineering, Civil Engineering (Structural Engineering), Structural Engineering	03
Architecture/ Building Construction Technology	Architecture Engineering	01
Mechanical	Mechanical Engineering, Mechanical(Mechatronics) Engineering, Mechanical and Automation Engineering	02
Electrical/ Electrical and Electronics	Electrical Engineering, Electrical Engineering(Electronics and Power), Power System Engineering, Electrical and Electronics Engineering.	02
Electronics Telecom/ Telecommunication/ Electronics & Comn/Satellite Communication	Electronics and Telecommunication Engineering, Telecommunication Engineering, Electronics and Communication Engineering, Electronics and Electrical Communication Engineering	03
Computer Sc & Engg/ Computer Technology /Information Tech/M.Sc Computer Sc	Computer Engineering, Computer Science, Computer Science Engineering, Computer Science & Engineering, Information Science & Engineering	03
<b>Total</b>		<b>14</b>

**(c) For Widows of Defence Personnel Only.**

<b>Entry</b>	<b>Vacancy</b>	<b>Remarks</b>
SSC(W) Tech	1	B.E./B.Tech in any tech stream

SSC(W)(non tech)(non UPSC)	1	Graduation in any stream
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**These vacancies are tentative and may be changed depending on organizational requirements.**

**Note 1.** A candidate is permitted to apply for only one entry/discipline of the above courses. Change of Entry or qualification choice will not be entertained at any stage of selection process.

**Note 2.** Widows of Defence Personnel who died in harness, including those with children will be eligible to apply for SSCW(Tech & Non Tech), provided they have not remarried. Their candidature will be considered only against specific vacancies released for said category, by the competent authority. In case unfilled, the vacancy will revert to the category other than that of widows. The following documents are to be attached with the application:-

- (i) Application form (To be downloaded from [www.joinindianarmy.nic.in](http://www.joinindianarmy.nic.in)).
- (ii) Self attested copy of Class 10<sup>th</sup> Certificate and Marksheet.
- (iii) Self attested copy of Class 12<sup>th</sup> Certificate and Marksheet.
- (iv) Self attested copy of Degree Certificate and Marksheet.
- (v) Part II Order of marriage.
- (vi) Part II Order of demise of husband.
- (vii) Initial report of Battle/Physical casualty.
- (viii) Detailed report of Battle/Physical casualty.
- (ix) Battle/Physical Casualty Certificate.

**Note 3. Serial (v) to (ix) above to be attested by an officer ex MP Directorate(MP-5 & 6), IHQ of MoD (Army) for officers and by Concerned Record office for JCO/OR.** The envelope containing the application should be superscribed in Red ink clearly indicating the name of Offr/JCO/OR with rank. For example, "Widow of late\_\_". These candidates will apply **OFF LINE** directly to Rtg



'A'(WE) section, Dte Gen of Rtg, AG's Branch, Integrated HQ, Ministry of Defence (Army), West Block-III, R K Puram, New Delhi-110066, provided they possess the laid down educational qualification and meet specified selection criteria. The last date for receipt of such Offline applications at Dte Gen of Rtg duly completed in all respects is **31 Mar 2020**. Applications received after last date/incomplete applications will not be accepted.”

(10) A bare perusal of the qualification prescribed by the respondents shows that the recruiting respondents No.1 and 2 have prescribed the Engineering streams which they would be permitting to participate in the process of their recruitment. The Column II of this table does not talk of the degree as such, rather, it talks of the streams of Engineering; as listed in the Army instructions, which in term are mentioned in the above-said letter dated 10.02.2014 issued by the Directorate General of Recruitment. Although, stream of engineering is mentioned in Column No.II of the table but since the nomenclature of the degree as such is not specified in Column I, therefore, to cope with the situation where the persons with degrees having different nomenclature may apply for the said post, the Column II of the table has specified certain connected Engineering streams, as approved by AICTE, as equivalent streams. It is also clear that the nomenclature of the degree of the petitioner does not find mentioned either in Column No.I or in Column No.II of the table mentioned above. Accordingly, in normal course, this Court would refrain from proceeding further to interfere in the process of the selection in any manner whatsoever. Recognizing that it is the employer who is to decide the job profile and the required qualification for such a recruitment, this Court would be disinclined to act as an expert to go into the equivalence of various degrees which different Universities might be issuing for study of same or similar streams in Engineering.

(11) However, the counsel for the petitioner have relied upon entry No.83 in Appendix II attached to the norms and requirements, as contained in Chapter VI of Approval Process Handbook of AICTE (2019-2020) to contend that AICTE itself has taken the degree of 'Electronics and Communication Engineering' and 'Electronics Communication Systems Engineering' as the same thing and have mentioned both these streams at the same entry for the purpose of approval. The relevant extract from the AICTE Approval Process Handbook (2019-20) is reproduced hereinbelow:

## “ Chapter VI

### Norms and Requirements

6.2 The list of approved nomenclature of Courses at Diploma/Post Diploma Certificate/Under Graduate Degree/Post Graduate Diploma/ Post Graduate Programmes in Engineering and Technology/Pharmacy/ Architecture/ Planning/ Applied Arts and Crafts/ Design/Hotel Management and Catering Technology/ MCA/ Management shall be as provided in the Appendix 2 of Approval Process Handbook.

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### Appendix 2

2.0 Approval Nomenclature of Courses

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2.3 Under Graduate Degree in Engineering & Technology

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#### **S. No. 83 Electronics & Communication (Communication System Engineering)**

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(12) Undisputedly, it is the AICTE which regulates the study of Engineering in various streams. If the statutory regulating educational body itself has put the stream of 'Electronics and Communication' and the 'Communication System Engineering' in the same bracket then the claim of the petitioner gets a due weighage. Accordingly, the claim of the petitioner that the degree of the petitioner, although mentioned as in 'Electronics Communication System Engineering' is, in fact, a degree of 'Electronics and Communication Engineering' itself, deserves due consideration. Therefore, even if the nomenclature of the degree of the petitioner does not find mention either in the original stream or in the stream mentioned as equivalent one by the respondents, the claim of the petitioner cannot be brushed aside altogether. The aspect of eligibility of the degree of the petitioner for the recruitment in the concerned stream deserves to be specifically considered by the appropriate authority for the purpose of the present recruitment, as well as, for the future recruitments, lest an entire section of engineering graduate possessing the degree which the petitioner possesses, and

which is duly approved by the AICTE, should be excluded from consideration for the prestigious employment in the Indian Army.

(13) Although, the learned counsel for recruiting respondents No.1 and 2 has relied upon para No.4 of the reply filed on behalf of respondent No.2 to contend that the clarification on the issue qua the decree of the petitioner was sought from the competent authority and it has been clarified that the equivalence of various engineering streams for the purpose of employment in the Army has already been clarified and the Directorate General of Recruitment is to comply with the existing equivalence of the streams as already mentioned in the Army Instructions dated 10.02.2014, however, this para of the reply clearly reflects a non-consideration of matter specifically qua the degrees with the nomenclature of the degree of the petitioner. The said paragraph does not reflect that the competent authority has taken a conscious decision qua the degree with the nomenclature as is possessed by the petitioner. It is not the case of the recruiting respondents that the issue of equivalence of the degree with the nomenclature of the degree possessed by the petitioner has been specifically considered by them and it has been found to be not equivalent to the degree in 'Electronics and Communication Engineering'. Had that been the situation that would have been end of the matter; so far as the consideration by this Court is concerned. However, the pleadings of the respondents do not reflect any specific consideration by the recruiting respondents No.1 and 2 qua the equivalence of the degree with the nomenclature of the degree of the petitioner. Whereas, such a consideration becomes imperative upon the respondents in view of the regulations of the AICTE; which has placed the degree of 'Electronics and Communication Engineering' and the degree of 'Electronics Communication Systems Engineering' at par and has included both these nomenclatures in the same entry in its regulations. Unless this aspect is specifically considered by the recruiting respondents No.1 and 2, it would tantamount to irrational exclusion of whole lot of candidates from consideration in the relevant jobs in the Army. This would be in violation of their right to get equality before law and equal protection of law; as granted by the Constitution of India. Hence, this Court finds itself under a duty to direct the respondents to take a specific call upon the matter and to take a specific, unbiased and conscious decision qua the equivalence of the degree of 'Electronics Communication System Engineering' and the degree in 'Electronics and Communication Engineering' qua the present recruitment, as well as, qua the future recruitments.

(14) Although, the recruiting respondents No.1 and 2 may be directed to consider the equivalence of the degree of the petitioner with the degree of 'Electronic and Communication Engineering', however, that by itself would not confer any additional and immediate right upon the petitioner to seek joining of the course immediately without recruiting respondents No.1 and 2 having taken a conscious decision qua such equivalence. Therefore, the claim of the petitioner is also liable to be kept in abeyance till such a conscious decision is taken by the competent authority under the recruiting respondents No.1 and 2.

(15) Accordingly, the present petition is disposed of with a direction to the respondents No.1 and 2 to take a specific, unbiased and conscious decision on equivalence of the degree in 'Electronics and Communication Engineering' and the degree in 'Electronics Communication Systems Engineering' keeping in view the regulations of the AICTE and the course contents as prescribed by the AICTE and the University-respondent No.3. Such a conscious decision shall be taken qua the petitioner, as well as, qua the future recruitments in the stream of 'Electronics and Communication Engineering' so as to avoid any further inconvenience to the similarly situated candidates in future. It is further ordered that such conscious decision shall be taken by the respondents within a period of two weeks from today.

(16) If on such conscious decision the degree of the petitioner is adjudged to be equivalent to the degree of 'Electronics and Communication Engineering' as required by the recruiting respondents No.1 and 2 then the petitioner shall be deputed for training to the present course itself. However, if the recruiting respondents do not find equivalence between the two degrees, with reference to their job profiles and job requirements; then the petitioner shall have no right to claim eligibility on the basis of his degree in the present selection and he shall have no right to be deputed for the training course in the present batch.

(17) With abovesaid directions, the present petition is disposed of.

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*Shubreet Kaur*