



CWP-9699-2023

1

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(205)

CWP-9699-2023

Date of Decision : July 10, 2026

Mohan and another

.. Petitioners

Versus

State of Haryana and others

.. Respondents

**CORAM: *HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI*
*HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL***

Present: Mr. Chanderhas Yadav, Advocate, for the petitioners.

Mr. Aman Mittal, DAG, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the Appendix 'B' of the Industrial Training Department, Haryana, Field Officers (Group-C) Service Rules, 2013 (Annexure P-14) (hereinafter referred to as '2013 Rules') wherein qualifications for appointment to the post of Employability Skill Instructor in the said Department have been prescribed.

2. Learned counsel for the petitioners submits that while prescribing the qualification for appointment by way of direct recruitment, the Bachelor Degree in Business Administration and Masters of Business Administration from recognized University as a full time student and not through correspondent/distance mode is arbitrary and illegal.

3. Learned counsel for the petitioners further submits that any degree possessed either by distance mode or by regularly attending the

**CWP-9699-2023****2**

classes in the institute is to be deemed to be on the same footing and therefore, only accepting the degree obtained by the candidate by attending the classes through regular mode as a full time student, is totally arbitrary and illegal and the same could not have been prescribed.

4. The second argument raised by the learned counsel for the petitioners is that in the advertisement for the post of Employability Skill Instructor, only the degree of BBA and MBA from a recognized University was sought as an eligibility qualification and no condition was imposed with regard to possessing of such degree after attending full time course, declaring the petitioners ineligible on the ground of having the degree through the distance mode, is arbitrary and illegal.

5. Learned counsel for the petitioners further submits that once the petitioners have been allowed to compete and they have secured merit, now asking them on the ground that they are ineligible, is incorrect.

6. Learned counsel for the respondents, on the other hand, submits that prescription of a qualification is within the domain and jurisdiction of the employer and the candidate cannot seek and direct that what should be the qualification to compete for a post.

7. Learned counsel for the respondents submits that once a particular qualification has been prescribed by the appropriate authority much before the posts were advertised and that too through the notification issued by the Government of Haryana, merely that the petitioners do not fulfill such qualification will not render the same ultra virus and therefore, the writ petition filed challenging the qualification prescribed merely on the

**CWP-9699-2023****3**

ground that the petitioners do not possess the same, may kindly be dismissed.

8. Learned counsel for the respondents further submits that the qualification as prescribed under Haryana Govt. Industrial Rules, 2013 has to be possessed by the candidates to be eligible and once concededly, the petitioners do not fulfill such qualifications, their candidature was rightly rejected.

9. We have heard learned counsel for the parties and have gone through the record with their able assistance.

10. It is a settled principle of law that employer has the jurisdiction to prescribe a qualification to be eligible to hold any post. The Court also cannot direct the substitution of the same only on the ground that the substituted qualifications are better suitable than the one already prescribed. The qualification prescribed under the said Rules by the Govt. of Haryana can only be declared ultra vires in case the same violates any law or the same has been made with a mala fide intention. Further, such qualification can only be set aside in case prescribed by the authority not having jurisdiction.

11. In the present case, the petitioners have not been able to satisfy any of the conditions mentioned hereinbefore. The only ground raised is that the petitioners do not fulfill the prescribed qualification and therefore, the same should be set aside, which cannot be accepted.

12. Even otherwise, the petitioners have a qualification obtained through distance mode whereas, the requirement is obtaining of such



qualification by regularly attending the course. The difference in the acquiring a qualification through distance mode and getting a qualification by attending an institution regularly stands on a different footing. The petitioners cannot say that both the medium are the same.

13. It may be noticed that even the Hon'ble Supreme Court of India has held that a qualification of the degree obtained by a distance mode cannot be treated equivalent to a qualification obtained by attending the regular course. Rather, the qualification of degree in Engineering obtained by distance mode was only held valid, after making such candidate undergo a test as per the directions given by the Hon'ble Supreme Court of India in ***Orissa Lift Irrigation Corporation Ltd. vs. Rabi Sankar Patro (2018) 1 SCC 488*** hence, the argument of the learned counsel for the petitioners that the petitioners who have possessed the qualification obtained through the distance mode are similarly situated as the candidate who has obtained the qualification by attending the course regularly with the recognized institution, cannot be accepted.

14. Further argument raised by the learned counsel for the petitioners is that there was no condition of possessing the qualification through regularly attending the course in the advertisement and therefore, the said condition cannot be brought to operate against them so as to deny them the eligibility.

15. It may be noticed that in case any qualification which is part of the Rules governing the service notified by the competent authority, but is not mentioned in the advertisement, then the advertisement is incorrect and

**CWP-9699-2023****5**

the Rules will prevail and not the advertisement hence, applying the Rules in the case of the petitioners is perfectly valid and legal.

16. Learned counsel for the petitioners has not been able to show that as per the Rules governing the service, the petitioners are eligible hence, cancellation of their candidature is perfectly valid and legal.

17. No other argument has been raised.

18. Keeping in view the above, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

19. Accordingly, the writ petition is dismissed.

20. Civil miscellaneous application pending if any, also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

July 10, 2026
harsha

(AMARINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No