

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

CWP no. 11879 of 2015(O&M)

Date of Decision : 31.08.2015

Lekha Ram

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Mr. Surender Pal, Advocate for the petitioner

Mr.G.S.Wasu, Addl. AG, Haryana

Mr. H.N.Mehtani, Advocate for Haryana Public Service Commission.

MAHESH GROVER, J.

This is a writ petition under Article 226 of the Constitution of India praying for issuance of writ in the nature of mandamus directing the respondents to appoint the petitioner as Assistant Engineer(Civil) from the date when other similarly situated persons have been appointed. He has also prayed for consequential benefits.

Learned counsel for the petitioner contend that the petitioner has applied in response to the advertisement issued by Haryana Pubic Service Commission advertising 110 posts of Assistant Engineer prescribing the following qualifications:-

“(V) Recruitment to Assistant Engineer (Group B) in Irrigation

Department, Haryana

E.Q i) B.E (in respective branch i.e Civil/Mechanical/Electrical) or Equivalent qualification as mentioned in Appendix B of HSE (class II) Public Works Department (Irrigation branch) Rules, 1970.

ii) Hindi/Sanskrit upto Matric level.

The petitioner is an ex-servicemen and was holder of a diploma in Civil Engineering from Govt. Polytechnic Ambala city which is affiliated and recognized by Haryana State Board of Technical Education. He joined as Junior Engineer in the rank of Naib Subedar in Military Engineering Service i.e MES in Army and served for more than 23 years of service. The petitioner faced a written examination successfully and was called for interview. The result was declared on 17.7.2014 which showed the petitioner amongst the selected candidates under the category of ESM/DESM.

All the similarly situated persons who faced the selection process stood appointed but appointment was declined to the petitioner on the ground that qualification possessed by him is not equivalent to the degree of Civil Engineering.

Learned counsel for the petitioner contended that he has passed diploma in civil engineering and as per the Govt. of India's letter dated 26.5.1977 candidates possessing diploma in civil engineering with 10 years technical

experience in the appropriate field would be deemed to be equivalent to degree in civil engineering. He further contends that the State of Haryana has taken a decision that qualifications recommended by the Govt. of India shall be deemed to have been recommended by Govt .of Haryana as well and pursuant to which even the Directorate of Technical Education has clarified that such persons with diploma and experience shall be considered to be equivalent.

State of Haryana opposes the prayer even though it has been stated by learned counsel for Haryana Public Service Commission that in so far as they are concerned they have recommended the case of the petitioner for appointment.

It is thus at the end of the officials of the State of Haryana that the appointment of the petitioner has been held up.

On due consideration of the matter, I am of the view that this matter is no longer res integra being squarely covered by the ratio of judgment of this Court in CWP no. 24406 of 2013 decided on 17.3.2015. This writ petition was in turn decided on several precedents determining the very same issue and the notable amongst these are **Rohtash Kumar Nehra and another vs Union of India and others**, CWP No.12505 of 2009, decided on 15.7.2010, **Lal Chand Jangra vs State of Haryana and others**, CWP No.7955 of 2010, decided on 21.12.2010, the order passed in LPA no. 1493 of 2011 titled as **Haryana Vidyut Parsaran Nigam Limited vs Sant Kumar and others** decided on 27.9.2011 was challenged by the respondents therein in the Hon'ble Supreme Court and their

Lordships dismissed the Special Leave Petition on 12.3.2012.

Having regard to the aforesaid when the matter has been conclusively settled and in view of the specific instructions of the Govt. of India adopted by the State of Haryana as well, I am of the view that there would be no reason to deprive the petitioner appointment on account of lack of qualifications. Petition is thus allowed and petitioner is held entitled to appointment as Assistant Engineer (civil) at par with those who were appointed similarly. Consequently the petitioner shall be entitled to appointment with effect from the date when similarly situated persons were appointed in the very same selection. However, he shall not be paid any salary on account of the fact that he has not worked but the period shall be reckoned for all other service benefits.

August 31, 2015
rekha

(Mahesh Grover)
Judge