

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 9767 of 2010

Reserved On : November 20, 2015

Pronounced On : 01.12.2015

Sunil

.... Petitioner

vs.

The State of Haryana and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. R. K. Mathur, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

Mr. Rohan Sharma, Advocate
for Mr. Vikram Singh, Advocate
for respondent no. 3.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner, after seeking quashing of the selection and appointment of respondent no. 3, prays for the issuance of a direction to the respondents to consider his case for selection and appointment as Junior Technical Assistant. The grounds of challenge to

appointment of respondent no. 3 are that as per the prescribed qualifications for the post in question, a candidate was required to possess Diploma in Textile Technology with one year experience in production or quality control of testing of textile goods. According to the petitioner, respondent no. 3 was possessing Diploma in Textile Design and not Textile Technology, as required, and was also lacking in having the prescribed experience.

So far as the challenge to the selection and appointment of respondent no. 3 on the ground that he lacked the required one year experience is concerned, a perusal of the pleadings shows that no such averment is found therein. Thus, the same cannot be allowed to be raised.

The other issue raised to question the eligibility of respondent no. 3 on the ground of academic qualifications, though attractive on first blush, does not stand deeper probe. It is true that respondent no. 3 holds Diploma in Textile Design, as apposite to the requisite qualification, which is Diploma in Textile Technology. However, he also possesses a Degree in Textile Engineering and it is the unrebutted case of the respondents, as no replication to the same has been filed on behalf of the petitioner, that a Degree in Textile Technology is higher qualification in the field as the nomenclature of 'Technology' and 'Engineering' are being used interchangeably by various Universities and Institutes. That being so, respondent no. 3 would be deemed to be possessing the prescribed qualification as per

the authoritative pronouncement by a Full Bench of this Court in **Manjit**

Singh vs. State of Punjab and others – 2011 (1) SLR 583, wherein it has been held as under :-

“27. From the facts on record and dictum of above noticed judgments, it emerges that the candidate possessing higher qualification in the same line cannot be excluded from consideration for selection. It is a different matter that he/she may not be entitled to any additional weightage for higher qualification, but cannot be denied consideration at par with a candidate possessing minimum prescribed qualification. Denying consideration to a candidate having better and higher qualification in the same line and discipline would definitely result in breach of Articles 14 and 16 of the Constitution of India.
[Emphasis supplied]”

Whether the qualification of respondent no. 3 was equivalent to the prescribed qualification, is a job better left to the experts, as the Court is normally not equipped to go into such issues, especially in the pleaded facts of the case in hand, wherein the specific stand on the part of the respondents, that respondent no. 3 possessed the prescribed qualifications,

has not been rebutted to by the petitioner, much less by an opinion of an expert.

It is further borne out from the record that the name of the petitioner is neither found in merit list nor in the waiting list, as the last person selected and appointed had obtained 47.58, as against the petitioner's score of merely 38.36 marks.

Irrespective of the above, respondent no. 3, as on date, has served the respondents for over five years, and the Court has been informed that his service is unblemished.

In the aforementioned facts of the case and the settled position of law, no direction can be issued to quash the appointment of respondent no. 3.

Considering from all angles, as noticed above, no case is made out for interference. Resultantly, writ petition is ordered to be dismissed.

No costs.

**(DEEPAK SIBAL)
JUDGE**

Pronounced On : 01.12.2015

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