

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

227(1)

Civil Writ Petition No.24518 of 2013

Jai Parkash Sharma and others

....Petitioners

versus

State of Haryana and others

...Respondents

&

(2)

Civil Writ Petition No.23612 of 2014

Jitender Kumar and another

....Petitioners

versus

State of Haryana and others

...Respondents

Date of Decision : 19.05.2015.

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the Digest? Yes/No

Present: Mr. Deepak Sonak, Advocate
for the petitioners.

Mr. Harish Rathee, Sr. DAG, Haryana.

DAYA CHAUDHARY, J. (Oral)

This order shall dispose of CWP Nos.24518 of 2013 and 23612 of 2014 as the issue involved in both the writ petitions is identical. For facility of reference, the facts are being extracted from CWP No.24518 of 2013.

Petitioners were initially appointed as Water Pump Operators

Grade-II on daily wage basis. Their services were regularized in the year 1996 against Group-D posts where as they were working on Class-III posts and as such they were entitled to be regularized against Class-III posts. They approached this Court by way of filing a civil writ petition which was disposed of with a direction to consider their claim but the same was rejected which has been challenged in the present petition.

The present petitions have been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned orders dated 06.03.2013 (Annexure P-4) whereby the claim of the petitioners for regularization of their services to the post of Water Pump Operator-II/APO in Group 'C' has been rejected.

Learned counsel for the petitioners submits that the petitioners are entitled for regularization to the post of Water Pump Operator in Group 'C' w.e.f. 01.02.1996 along with all consequential benefits in view of the Division Bench judgement of this Court in **CWP No.18974 of 1996**, titled as '**Abdul Kayyum and another vs. State of Haryana and others**', decided on 26.09.2000 (Annexure P-9). Learned counsel also submits that the petitioners were to be regularized against Group 'C' post but still they were considered against Group 'D' posts and as such the action of the respondents is not only discriminatory but also arbitrary as initially they were appointed on Group 'C' posts and they were fulfilling the requisite qualification at the time of their initial appointment. He further submits that the claim of the petitioners has wrongly been rejected on the ground that the petitioners do not fulfill the requisite qualification for the post of Water Pump Operator-II i.e. the experience of five years, in case, the candidates are having matriculation certificate.

Learned State counsel submits that the present case is liable to be dismissed on the ground of delay as the petitioners were regularized in the year 1996 and the present petition has been filed in the year 2013. Learned State counsel also submits that the requisite qualification for regularization to the post of Water Pump Operator-II is that the candidate should possess ITI Certificate in the trade of Motor/Tractor/Diesel/Electrical/ Mechanical and should have minimum experience of five years. He further submits that none of the petitioners fulfill the qualification as they were not having qualification of ITI Certificate. He further submits that the petitioners were regularized against Group-D posts keeping in view of their qualification and experience and they are not entitled for regularization against Group-C posts.

Heard arguments advanced by learned counsel for the parties and have also perused the impugned order as well as other documents available on record.

Admittedly, the petitioners were regularized against Group-D posts in the year 1996 on the basis of their qualification and experience. Subsequently, they made a representation for regularization against Group-C posts. The requisite qualification for the post of Group-C is that the candidate should have ITI Certificate and experience of five years but none of the candidate is having ITI Certificate. Simply on the basis of judgment in **Abdul Kayyum's Case(supra)**, the petitioners are claiming their right on the posts of Group-C on the basis of five years experience. Undoubtedly, the petitioners accepted their claim against Group-D posts and said order was never challenged. Although the petitioners filed CWP No.18976 of 1998 which was disposed of on 28.08.2012 with a direction to respondent

No.2 to consider the claim of the petitioners. The claim of the petitioners has been rejected by passing a speaking order wherein it has been clearly mentioned that the qualification described for the posts of Water Pump Operator-II is ITI in the trade of Motor/Tractor/Diesel/Electrical/Mechanical and minimum experience of five years and field test but none of the petitioners is having ITI Certificate.

Accordingly, the petitioners cannot claim their right over the posts of Water Pump Operator-II only on the basis of experience and in absence of possessing requisite qualification, the petitioners cannot be considered against Class-C posts. There is no merit in the contentions raised by learned counsel for the petitioners and the same being devoid of any merit, is hereby dismissed.

(DAYA CHAUDHARY)
JUDGE

May 19, 2015
sonia g.