

CWP No.26944 of 2014 (O&M)

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

**CWP No.26944 of 2014 (O&M)
Date of decision:17.03.2015**

Manmohanjeet Kaur

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Sapan Dhir, Advocate,
for the petitioner.

Mr. Anant Kataria, AAG, Punjab.

Rakesh Kumar Jain, J.

The petitioner passed her matriculation examination in March 2003 and graduation in April 2008. The Department of General Administration, Punjab invited applications (through internet) for 94 posts of Senior Assistant from the candidates between the age group of 18-37 years as on 01.01.2014 and prescribed the minimum qualification as under:-

“MINIMUM QUALIFICATION:

- a) Applicant should be Graduate in any discipline from a recognized university.
- b) Possesses at least 120 hrs course with hands on experience in the use of Personal Computer of Information Technology in Office Productivity applications or Desktop Publishing applications

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from a Government recognized institution or a reputed institution, which is ISO 9001, certified.

Possesses Computer information technology course equivalent to 'O' level certificate of Department of Electronics Accreditation of Computer Course (DOEACC) of Government of India.

- c) He must have passed Punjabi upto Matric or its equivalent level.”

Since the petitioner could not clear Paper-I, therefore, she was not allowed to appear in Paper-II as well.

Counsel for the petitioner has submitted that the post in question was advertised in the 25% quota meant for the direct appointment under the Punjab Civil Secretariat (State Service Class III) Rules, 1976 which lays down the following qualification:-

Qualifications and mode of appointment

<u>Sr. No.</u>	<u>Name of Post</u>	<u>Method of appointment</u>	<u>Minimum Educational and other qualifications</u>
3	Senior Assistant	(ii) Twenty five percent by direct appointment	(i) A degree from a recognized University or its equivalent. (ii) Qualifies in the competitive test to be held by the recruiting authority.

He has relied upon a Division Bench Judgment of this Court in the case of **Dharamvir v. State of Haryana and another**, 1996(1) RSJ 296 to contend that the advertisement cannot be issued contrary to the statutory rules and no additional qualification, not mentioned in the Rules, can be

prescribed for the appointment.

On the other hand, counsel for the respondents has submitted that the competitive test was held in view of the qualification no.(ii) which provides for “qualifies in the competitive test to be held by the recruiting authority” . The structure of the competitive test was as follows:-

“PAPER-I

Sr. No.	Subjects	Questions	Total Marks
1	General Awareness	10- Punjab history & Culture 10- Constitution of India 10- General Knowledge 10- Current Affairs (National & International)	40
2	Mental Ability/ Reasoning & Arithmetic (Matric)	20	20
3	Computer Basics	20	20
4	Language Proficiency (Vocabulary & Grammar)	20 Punjabi 20 English	40
	Total	120	120

PAPER-II

Sr. No.	Subjects	Questions
1	Precis Writing (English)	10 Marks
2	Precis Writing (Punjabi)	10 Marks
3	Translation English to Punjabi	10 Marks
4	Translation Punjabi to English	10 Marks
	Total	40 Marks”

It is further submitted that since the petitioner could not clear Paper-I, therefore, she has no right to challenge the advertisement on the

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ground that it prescribes qualification contrary to the Rules.

After hearing learned counsel for the parties and examining the record, I am of the considered opinion that there is no merit in the present writ petition because it is categorically provided in the Rules that the candidate seeking direct appointment as Senior Assistant in the 25% quota has to qualify the competitive test which would be held by the recruiting authority. Accordingly, the step of qualifying the competitive test has been specifically mentioned in the advertisement. The test was in two parts i.e. Paper-I and Paper-II and since the petitioner has failed in Paper-I, she was not found eligible even to appear in Paper-II and hence, was not found fit for the purpose of appointment.

Thus, the judgment relied upon by counsel for the petitioner in **Dharamvir's case (supra)** is not applicable to the facts and circumstances of the present case because there is no deviation by the respondents from the Rules which itself provides for competitive test and the structure of the competitive exam was specifically provided in the advertisement itself.

In view thereof, the present writ petition is hereby dismissed being denuded of any merit.

March 17, 2015
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(**Rakesh Kumar Jain**)
Judge