

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

- 1- **CWP No.387 of 2014(O&M)**
- Gurdeep Singh and others ...Petitioners
- Versus
- Punjab State Power Corporation Ltd. and others ...Respondents
- 2- **CWP No.4980 of 2014 (O&M)**
- Sandeep Singh and others ...Petitioners
- Versus
- Punjab State Power Corporation Ltd. and others ...Respondents
- 3- **CWP No.10087 of 2014 (O&M)**
- Khushvendra Sood ...Petitioner
- Versus
- Punjab State Power Corporation Ltd. and others ...Respondents
- 4- **CWP No.21012 of 2014 (O&M)**
- Rajnish Kumar Pal ...Petitioner
- Versus
- Punjab State Power Corporation Ltd. and another ...Respondents
- 5- **CWP No.21646 of 2014 (O&M)**
- Jatin Jindal ...Petitioner
- Versus
- Punjab State Power Corporation Ltd. and another ...Respondents
- and
- 6- **CWP No.14710 of 2012 (O&M)**
- Gaurav Vir Singh ...Petitioner
- Versus
- Chairman, Punjab State Power Corporation Ltd. and others
- Respondents

Date of decision: May 27, 2015

--

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

--

Present: - Mr. D.S. Patwalia, Sr. Advocate assisted by
Mr. Salil Sablok and Mr. B.S. Patwalia, Advocates
for the petitioners.

Mr. MPS Mann, Advocate
for the petitioners (in CWP-14710-2012)

Mr. Vikas Chatrath, Advocate
for the respondent- Corporation.

Mr. Tribhawan Singla, Advocate
for the respondent- Punjab Technical University.

-

HARINDER SINGH SIDHU, J.

This order shall dispose of afore-mentioned six writ petitions as the common questions of law and facts are involved therein. However, for facility of reference the facts are being taken from CWP No.387 of 2014.

Vide advertisement No. 276/2012 dated 10.05.2012 the respondent – Punjab State Power Corporation Ltd. invited applications for selection and appointment to various posts. These included 242 posts of Junior Engineers, out of which 215 posts were

for Junior Engineer /Electrical. Clause 6 of the advertisement dealt with the selection process. The eligible candidates were required to undergo written test and the merit was to be prepared on the basis of marks secured in the written test. There was to be a common test for J.E./ Electrical, A.P.A./ Electrical, A.J.S./Electrical, and the candidates applying for these posts were required to indicate the order of their preference of post, which would be allocated based upon their merit.

The written test was got conducted by the respondent-Corporation through an independent outsource agency. A bunch of writ petitions including **CWP No.14036 of 2012** titled as '**Major Singh and others Vs. P.S.P.C.L. and others**' were filed alleging large scale bungling and cheating in the said test. Taking note of the allegations, the respondent-Corporation decided to annul the written test and hold a fresh one. In view of the said decision of the Corporation to re-conduct the test, the writ petition was disposed of on 03.04.2013.

Accordingly, the respondent-Corporation issued a notice for re-conducting the written test for filling up the posts earlier advertised vide advertisement No.CRA-276/2012. As per the said

notice, the test for the post of Assistant Engineers was to be held on 27.7.2013 and for the post of Junior Engineers and other posts, the test was to be held on 28.07.2013. Along with the notice, the respondents issued instructions dated 10.07.2013 (Annexure P-4). Clause 5 thereof stated that candidates who have applied online for the post for which they do not have required qualification as indicated in the advertisement and have filled the application form by giving incorrect/incomplete information and admit card has been sent to them by online process, shall be appearing at their own risk. Their application/ candidature shall be liable for rejection outright at any stage during and after the process of the selection. Clause 6 stated that candidates who had applied for the post of A.E. (OT)/Electrical, J.E./Electrical, A.P.A./ Electrical, A.J.S./ Electrical, but have the qualification/ degree in Mechanical/Instrumentation and Communication/ Electrical and Electronics Engineering (i.e. other than the degree in Electrical Engineering), in case admit cards have been issued to such candidates through online process, they shall be appearing at their own risk and that in case such cases are found during selection process the candidature of such candidates for all posts would be rejected.

This condition No.6, as per which candidates holding a degree in Electrical and Electronic Engineering have been specifically declared to be ineligible for the post of J.E./ Electrical, has been impugned in the present petitions. Directions have also been prayed for that the respondents consider them eligible for appointment to the post of Junior Engineer (Electrical) by considering the degree in Electrical and Electronic Engineering as equivalent/ prescribed qualification for the above post.

The detail of the qualifications of the petitioners is as under:-

CWP No.	Name of petitioner/s	Qualification	University
387-2014	Gurdeep Singh	B.Tech. (Electrical & Electronics)	Punjab Technical University
	Karambir Singh	B.Tech. (EEE)	Punjab Technical University
	Manjinder Singh	B.Tech. (EEE)	Punjab Technical University
	Ashish	B.Tech. (EEE)	Punjab Technical University
4980-2014	Sandeep Singh	B.Tech. (EEE)	Punjab Technical University
	Nidhi Saini	B.E. (EEE)	Visveswaraiah Technological University, Belgaum, Karnataka
	Nitish Aggarwal	B.E.(EEE)	Panjab University, Chandigarh
	Pooja Kaul	B.E. (EEE)	Panjab University, Chandigarh
10087-2014	Khushvendra Sood	B.E. (EEE)	Panjab University, Chandigarh
21012-2014	Rajnish Kumar Pal	B.E. (EEE)	Panjab University
21646-2014	Jatin Jindal	B.Tech. (EEE)	NIT, Tiruchirapalli
14710-2012	Gaurav Vir Singh	B.E. (EEE)	Panjab University

The test was held on 27/28.07.2013, the petitioners

appeared in both tests and were declared successful in the examination held for the post of Junior Engineer (Electrical) and were placed at Sr. No.49, 81, 101, 220 in the merit list. Meanwhile, candidates who possessed the degree of Electrical and Electronic Engineering, though placed higher in the merit list, were not issued appointment letters for the post of Assistant Engineer (Electrical). Apprehending similar treatment in view of Clause 6 of the instructions (Annexure P-4) as per which candidates possessing the degree of Electrical and Electronic Engineering would not be considered eligible for the post of Assistant Engineer (Electrical), Junior Engineer (Electrical) etc, the petitioners filed the present petition impugning Clause 6 of the instructions (Annexure P-4).

It is averred that the Punjab Technical University, Jalandhar had issued notification dated 22.02.2013 (Annexure P-7) clearly indicating that the syllabus of Electrical and Electronic Engineering and Electrical Engineering shall remain same for all batches upto 2012 session and shall be changed from 2013-2014 onwards. It is the case of the petitioners that they possess degrees in Electrical and Electronic Engineering from Punjab Technical

University and belong to the batch of 2007-2011, 2003-2007, 2008-

2012 and 2007-2011 respectively. Further, Respondent No.3- Punjab Technical University in its communication to the respondent- Corporation dated 01.08.2012 and 11.11.2013 had clarified that the syllabus is the same in the courses of B.Tech Electrical Engineering and B.Tech. Electrical and Electronic Engineering carried out by the University, and degree of B.Tech. Electrical Engineering and B.Tech Electrical and Electronic Engineering issued by the Punjab Technical University are equal. It has also been averred that the subject course for the degree in Electrical and Electronic Engineering and in Electrical Engineering are identical and same in all respects as is evident by the syllabus scheme (Annexure P-10). It is hence contended that the petitioners cannot be held ineligible for the post of JE(Electrical).

On issuance of notice of motion, separate written statements have been filed by the respondents. In the short affidavit filed on behalf of respondent No.3, the Punjab Technical University, it has been stated that as per notification dated 22.2.2013 (Annexure P-7), the University had already declared that syllabus of Electrical and Electronic Engineering and Electrical Engineering is same upto session 2012. It has been further stated that in response to the letter

of PSPCL, the respondent-University had informed that the courses for both B.Tech (Electrical Engineering) and B.Tech. (Electrical and Electronic Engineering) are the same.

In the written statement filed on behalf of respondents No.1 and 2, it has been stated that the petitioners do not fulfill the qualification laid down in the statutory rules governing the service conditions of Junior Engineer (Electrical), nor do they fulfill the qualification as stipulated in the advertisement, which is strictly as per the qualification prescribed in the statutory regulations. It is asserted that the instructions (Annexure P-4) are in consonance with the Regulations governing the post and the instructions were issued only with a view to avoid any confusion at a later stage. It is stated that the petitioners have not challenged the statutory regulations and the advertisement and having participated in the selection process cannot now be permitted to impugn the same.

In response to the averments in the writ petition that in the past the respondent-Corporation has considered and appointed persons possessing the qualification of degree in Electrical and Electronic Engineering, it has been stated that after the formation of the Corporation consequent upon the unbundling the erstwhile

Punjab State Electricity Board, no person with the qualification of Electrical and Electronic Engineering has been selected and appointed as Junior Engineer (Electrical).

The petitioners have filed replication in which it has been stated that on the representation made by the petitioners and others similarly situated, the respondent-Corporation vide its office order dated 01.03.2013 modified by office order 15.01.2014 constituted a committee to consider the equivalence of Electrical and Electronic Engineering with Electrical Engineering for the post of Assistant Engineer (O.T.)/ Electrical to be applicable for future recruitment. The committee after a detailed examination of the issues concluded that the Electrical Engineering and Electrical & Electronics Engineering can be considered equivalent to the maximum extent for all intents and purposes and will fully fulfill the requirement of PSPCL for which it recruits Assistant Engineer (Electrical) and recommended that the same may be considered for future recruitment. Thereafter, the Board vide agenda item No.50 dated 30.01.2014 took a conscious decision to amend the Recruitment Rules and made holders of degree in Electrical and Electronic Engineering eligible for the post of Junior Engineer (Electrical) (Annexure P-15). As per decision of the Board,

the Regulations have been amended and in the subsequent advertisement dated 4.9.2014 (Annexure P-9) issued by the Corporation inviting applications for recruitment to the post of Assistant Engineer (OT Electrical) degree in Electrical & Electronic Engineering has been included as a qualification for the said post.

Learned counsel for the petitioners has raised the following arguments:

- (i) Once a technical body on clarification sought by the employer grants equivalence to a degree prescribed by it, the employer cannot ignore or interpret the equivalence.
 - (ii) Once the Corporation after due consideration of the matter consequent on a representation submitted by the petitioners and others affected, concludes that the degree of Electrical and Electronic Engineering is not only equivalent but also higher than the Electrical Engineering, then the benefit of that decision has to relate back and be applicable to the case of the petitioners.
 - (iii) Once a finding is arrived at that a qualification is a higher qualification in the same line then even if equivalence is not granted, the holder of a higher qualification has to be held eligible for the post.
 - (iv) Neither the statutory regulation nor the advertisement made the petitioners ineligible for the post.
- Clause 6 in the instructions (Annexure P-4) which

indicates otherwise is only a guideline and cannot supersede either the statutory rules or the advertisement.

On the other hand, learned counsel for the respondents has argued as under:

(i) The present petition is liable to be dismissed as the petitioners did not challenge the advertisement in the first instance.

(ii) The petitioners did not come to the Court immediately after the issuance of the instructions (Annexure P-4), which specifically held them to be ineligible. The petitioners having participated in the test and taken their chances cannot later turn around and impugn the eligibility conditions.

(iii) The petitioners are guilty of suppression of facts. In their online applications, they mentioned that that they possessed the qualification of Electrical Engineering and it is only because of that, their online application was entertained and they were issued admit cards.

(iv) Granting any relief to the petitioners would be inequitable and prejudice many similarly situated candidates, who may not have applied considering that they were ineligible.

(v) If at all, the petition has to be allowed then all the posts, which have been kept reserved for the petitioners

by various interim orders should be made available to all candidates possessing the degree of Electical and Electronic Engineering and the posts should be filled by inviting fresh applications.

I have heard the Ld. Counsel for the parties.

The qualification for the post of Junior Engineer(Electrical) as per the Regulations existing at the time of issue of the advertisment has been reproduced in the written statement filed by respondent 1 & 2 and is as under:

Sr. No.	Post	Existing Qualification as per office order No. 997 dt. 01.12.11
3(a)	Junior Engineer/Elect	Full Time Regular 3/4 years Diploma in Electrical Engg. From an Institute recognized by State/ Central Govt. with minimum 60% marks or BE/ B Tech/ B.Sc. Engineering in Electrical Engg. with minimum of 60% marks or equivalent degree in respective discipline recognized by AICTE or AMIE in Electrical Engineering with atleast 60% marks from Institution of Engineers (India) Calcutta.

The same qualification was prescribed for Junior Engineers in the advertisement as under:

Sr. No.	Name of Post	Post Code	No. of posts	Basic and Professional qualification	Pay Scale
1.	xx	xx	xx	xx	Xx
2.	Junior Engineer/ Auxiliary Plant Attendant /Assistant Junior Specialist/ Supervisor- Instrumentation			Full time regular 3/4 years Diploma from an institute recognized by State/ Central Govt. with minimum 60% marks or BE/ B.Tech. /B.Sc. Engineering with a minimum of 60% marks or equivalent degree recognized by AICTE or AMIE with at least 60% marks from institution	10900- 34800 + 4350 Grade Pay

				of Engineers (India) Calcutta in the discipline of:-	
	a) Junior Engineer Elect.	16	215	Electrical Engineering	
	b) Aux. Plant Attendant/ Elect.	17	22		
	c) Asstt. Junior Specialist / Elect.	18	5		
	d) Aux Plant Attendant/ Mech.	19	17	Mechanical Engineering	
	e) Asstt. Junior Specialist/ Mech.	20	8		
	f) Supervisor/ Instrumentation	21	8	For Diploma; Instrumentation or Electronics Engg. For BE/ B.Tech./B.Sc. Engineering or AMIE; Instrumentation & Control or Electronics & Communication Engineering	
	g) Junior Engineer/ Civil	22	30	Civil Engineering	

Thus, for Junior Engineer/ Auxilliary Plant Attendant/ Assitant Junior Specialist/ Supervisor- Instrumentation, the basic professional qualification required was a full time regular 3/4 years Diploma from an institute recognized by State/ Central Govt. with minimum 60% marks or BE/ B.Tech. /B.Sc. Engineering with a minimum of 60% marks or equivalent degree recognized by AICTE or AMIE with at least 60% marks from Institution of Engineers (India) Calcutta. The advertisment further indicated that for Junior Engineer/ Electrical, Aux. Plant Attendant/ Elect. Assistant Junior Specialist/

Electrical, the requisite degree, diploma etc. (i.e., the basic professional qualification required) was to be in the discipline of Electrical Engineering. For Aux. Plant Attendant/ Mech, Asstt. Junior Specialist/ Mech. the basic qualification was required in the discipline of Mechanical Engineering. For Junior Engineer (Civil), degree prescribed was in Civil Engineering.

It is clear from a perusal of the Regulations and the advertisement that for Junior Engineer (Electrical) the essential qualification specified is a degree/diploma etc. in the discipline of Electrical Engineering. There is no provision therein that a degree/diploma in an equivalent discipline would also make for eligibility. The equivalence referred to in the main column 'basic and professional qualification' is only in relation to a degree recognized by AICTE or AMIE as equivalent to BE/ B.Tech. /B.Sc. Engineering. This caters to a situation where the AICTE or AMIE may confer a degree in Engineering with a nomenclature different from BE/ B.Tech./ B.Sc. Engineering. This equivalence has nothing to do with the discipline in which the Engineering degree is required. The specific discipline in which the degree is required is clearly specified against each post or group of posts and there is no equivalence

provision in the regard thereto.

In this view of the matter, even if the degree in Electrical and Electronic Engineering is to be considered as equivalent to a degree in Electrical Engineering that would not further the cause of the petitioners in view of the settled legal position that the employer can insist on a strict and literal adherence to the qualifications prescribed in the statute and the advertisement and the absence of any provision therein making those possessing an equivalent qualification also eligible, would foreclose any claim of those possessing equivalent or even higher qualification for appointment to the said post.

In this regard, reference may be made to the decision of a Full Bench of this Court in Som Dutt vs. State of Haryana and another, 1984(1) ILR (Punjab) 400, wherein, it was observed as under:-

*“9. ...There **appears** to be **wide variety** of **reasons** for holding that the employer-State should in law, be entitled to prescribe the qualifications which it may think necessary as tailored to the peculiar needs of the particular post or service. Generally, it seems somewhat elementary that the employer alone would know what are*

the specialities and conditions of service or post for which the incumbent is required. Therefore, it would follow that its discretion in seeking the right man for the right job should be left relatively unfettered. Consequently, no doctrinaire rule can be laid down that a technically higher educational qualification is necessarily better or more advantageous for the peculiar needs of a post for which the employer-State has prescribed lower qualifications. The learned Advocate General argued and not without plausibility, that a Doctorate of Literature even from the most prestigious universities though undoubtedly a higher educational qualification may not only be irrelevant, but might prove counter-productive in a teacher who has to teach at the primary or even kinder garter levels in schools. On the larger perspective it was submitted, and in our view rightly, that superlatively higher qualified individuals may not have requisite job satisfaction or motivation in holding a post disquietingly below their academic rank though circumstances for the time being may compel them to accept such a job. The respondent-State, apart from qualifications may have the larger interest of the service in mind in having persons to man posts who value them and would have enough job satisfaction to hold on to them as well. It seems unnecessary to dilate on the various administrative exigencies and other practical considerations which

necessarily would come in for appraisal by the employer-State when prescribing minimal qualifications for a particular post or service generally.

10. Now what has been said above would apply equally and indeed with greater force where the qualifications are prescribed by an Act itself or by statutory rules framed thereunder. In such a situation, the respondent-State would have the added ground of claiming that a literal or strict compliance with the statute be adhered to. It is an ordinary and indeed a sound cannon of construction that one should not normally add or subtract from a statutory prescription. The wisdom or the policy of both the legislature and their delegates in the framing of rules thereunder (which on the authority of [State of Uttar Pradesh & Ors. v. Babu Ram Upadhyaya, AIR 1961 Supreme Court 75](#), become part and parcel of the Act.) is not to be easily questioned and overridden and therefore, it is not for the court to intrude into this somewhat sensitive field. Way back in **Banarsi Das and others v. The State of Uttar Pradesh and others, 1956 S.C.R. 357**, it was held as axiomatic that it is clear that the government is within its rights to lay down certain qualifications for the new recruits, and again in [University of Mysore v. C.D. Govinda Rao & another, AIR 1965 Supreme Court 491](#), their Lordships even in the absence of statutory rules had observed that on the

aspect of academic qualifications, the courts would naturally hesitate to intervene particularly when the matter has been duly considered by the persons authorised to do so. Therefore, once qualifications have been laid down by binding statutory provisions, then the concept of strict compliance therewith would entitle the State to insist that these be meticulously satisfied and extraneous considerations like qualifications other than those prescribed being either the exact equivalents, or technically higher than those, would be irrelevant to the issue and indeed may well be contrary to the statutory prescription.”

This view has been reaffirmed in subsequent decisions of this Court.

But the matter does not rest here. As has been stated in the replication filed by the petitioners, on their representation the matter was got examined by the Corporation and a Committee was constituted to consider the equivalence of Electrical and Electronic Engineering with Electrical Engineering for the post of Assistant Engineer (O.T.)/ Electrical to be applicable for future recruitment. The Committee after a detailed study concluded that Electrical Engineering and Electrical & Electronic Engineering can be

considered equivalent to the maximum extent for all intents and purposes and will fully fulfil the requirement of PSPCL for which it recruits Assistant Engineer (Electrical) and recommended that the same may be considered for future recruitment. Thereafter, the Board vide agenda item No.50 dated 30.01.2014 took a conscious decision to amend the Recruitment Rules making holders of degree in Electrical and Electronic Engineering eligible for the post of Assistant Engineer/ Electrical and also Junior Engineer (Electrical). The Regulations have accordingly been amended and in the subsequent advertisement dated 4.9.2014 issued by the Corporation inviting applications for recruitment to the post of Assistant Engineer (OT)/ Electrical, the degree in Electrical and Electronic Engineering has been recognized as a qualification for the post.

It is this decision, which comes to the rescue of the petitioners. Though the decision/ amendment has been specifically made applicable to subsequent recruitments, but the statutory recognition of equivalence needs to be given full effect to and the petitioners cannot be denied the benefit thereof.

The minutes of the meeting of the committee constituted

by the respondent corporation reveals that the committee compared the core subjects which pertain exclusively to Electrical Engineering and are studied in the basic Electrical Engineering with the courses studied in Electrical & Electronic Engineering. It found that Thapar University imparts four years course only in Basic Electrical Engineering, whereas, Punjab University offers degree only in Electrical & Electronic Engineering. Punjab Technical University offers degree in both the disciplines. As Thapar University is one of the premier Engineering Institutes in the country, the Committee proceeded by taking the subjects pertaining to basic Electrical Engineering offered by Thapar University as base for comparison. It was concluded that the Electrical & Electronic Engineering course offered by Punjab Technical University & Punjab University include almost all the subjects that are offered by Thapar University in its basic Electrical Engineering course barring few very exceptions. Accordingly, it was concluded that Electrical Engineering and Electrical & Electronic Engineering can be considered to be equivalent to the maximum extent for all intents and purposes.

At this stage, it may be relevant to note that a Division

Bench of Delhi High Court in **W.P.(C) 6100/2012** titled **Ms. Nisha vs.**

Union of India and others, decided on November 26, 2012 had examined this issue earlier and concluded that Electrical and Electronic Engineering is not only equivalent with Electrical Engineering but is also a little deeper course in that it not only subsumes the entire Electrical Course but also imparts something extra. The relevant observations of the Court are as under:-

“17. Now, two subjects being equivalent would mean having the same or similar curriculum; or to put it differently would have a equivalence relationship i.e. between elements of their sets there is near symmetry. Equivalence and complete identity are two different things.

18. As a matter of fact, the experts overlooked the fact that every constituent element of the B.Tech. ELECTRICAL course was included in the B.Tech. ELECTRICAL AND ELECTRONICS course, which in fact, is a little deeper course, and indeed, today the subject of ELECTRICAL is rendered more and more obsolete unless infused with ELECTRONICS and this explains why the degree course in B.Tech ELECTRICAL AND ELECTRONICS subsumes the entirety of the B.Tech ELECTRICAL course; and imparts extra knowledge.....

20. The tabular form chart reproduced by us hereinabove and our comments thereon in the

subsequent paragraphs compel us to hold that the degree B.Tech. ELECTRICAL AND ELECTRONICS is equivalent to the degree B.Tech ELECTRICAL.

21. It assumes importance to note that advertisements issued for employment by the Indian Navy and the Indian Air Force treat B.Tech. ELECTRICAL AND ELECTRONICS equivalent to B.Tech. ELECTRICAL. All Public Sector Undertakings which employ personnel versed and conversant with ELECTRICAL ENGINEERING such as Hindustan Petroleum Corporation Ltd., Steel Authority of India Ltd., Bharat Heavy Electrical Ltd., National Thermal Power Corporation Ltd. and Gas Authority of India Ltd. also treat the two degrees as equivalent.”

Before proceeding any further it may be mentioned that one consequence of the decision of the Corporation to grant equivalence to the degree in Electrical and Electronic Engineering with Electrical Engineering and the subsequent amendment of the regulations is that a major objection of the Ld. Counsel for the respondent Corporation that the petitioners have not challenged the regulations and the advertisement and that having participated in the exam they cannot be permitted to impugn the conditions lose all

significance.

Ld. Counsel for the respondents has also argued that the petitioners cannot be given the benefit of this decision which would be applicable to future recruitments. He has stressed that extending the benefit of this to the petitioners would be illegal, inequitable and be a fraud on the others who possessed the degree in Electrical and Electronic Engineering but did not apply for the post as the advertisement expressly made them ineligible. In the this regard, reference has been made to the decision of the Hon'ble Supreme Court in District Collector and Chairman Vizianagaram (Social Welfare Residential School Society) vs. M.Tripura Sundari Devi, 1990(3) SCC 655. In particular to the following observations have been relied upon:

“6. It must further be realised by all concerned that when an advertisement mentions a particular qualification and an appointment is made in disregard of the same, it is not a matter only between the appointing authority and the appointee concerned. The aggrieved are all those who had similar or even better qualifications than the appointee or appointees but who had not applied for the post because they did not possess the qualifications mentioned in the advertisement. It amounts to a fraud on

public to appoint persons with inferior qualifications in such circumstances unless it is clearly stated that the qualifications are relaxable. No court should be a party to the perpetuation of the fraudulent practice. We are afraid that the Tribunal lost sight of this fact.”

In my view the said judgment would not be applicable to the facts of this case. In that case the qualification prescribed for a Grade I and Grade II Teacher (Post Graduate Teacher and Trained Graduate Teacher) was a second class degree in M.A. The petitioner therein had passed M.A. in the third division and was wrongly offered appointment. But when on checking of her certificates, she was found to be ineligible having passed in the third division instead of the second division required, she was refused appointment. She approached the Administrative Tribunal which passed an order directing the authorities to appoint her. One of the reasons given by the Tribunal was that there was no other candidate available who had better marks. The Hon'ble Supreme Court set aside order of the Tribunal by observing, that in the circumstances, the observation of the Tribunal that no other candidate with better marks was available was at best a half truth, because the candidates who had secured a third division had not applied in view of the condition in the

advertisement that only candidates having second division were eligible. It was in this context that the Hon'ble Supreme Court made the observation extracted above which has been relied on by the Ld. Counsel for the respondent-corporation.

The said observation may not be attracted in the present case. Here, it is not a case of a person with inferior qualification being considered eligible. When the Corporation arrived at the conclusion that Electrical Engineering and Electrical & Electronic Engineering can be considered equivalent, and accordingly amended the regulations, it only recognized an existing fact. This was not akin to lowering the qualifications than those prescribed in the advertisement or appointing those not qualified like in the case before the Supreme Court.

No doubt, there may be a number of persons who had the degree in Electrical and Electronic Engineering, but did not apply in view of the stipulation that only persons possessing a degree in Electrical Engineering were eligible. But the petitioners were the valiant ones, who convinced of the justice of their cause, ventured to challenge the condition and simultaneously waged a two pronged battle, one by approaching the Court and secondly pursuing their

representation with the respondent- Corporation. The Corporation has now vindicated their stand holding that the two qualifications are equivalent and amended the regulations for future. The part that the Corporation has left undone the Court is impelled to do i.e., extend the benefit of the equivalence and the resultant eligibility to the petitioners. In my view, the benefit of the decision of the Corporation legitimately accrues to the petitioners. What the respondent Corporation, in effect has done, is not to alter the qualifications for the posts. If it were so, then it could surely be made applicable only for future recruitments. But what has been done is only to declare, confirm and recognise the equivalence which already existed in fact and thereby bring the regulations in accord therewith. Thus, in fact, the petitioners were eligible when they applied and the mere fact that this recognition came later ought not to work to their prejudice. Accordingly, I hold that the petitioners are liable to be treated as eligible for the posts.

No doubt, in an ideal situation the benefit of the equivalence now granted ought to have been extended to all the candidates similarly placed as the petitioners i.e., who could have applied for the posts advertised vide CRA-276/2012 dated 10.5.2012

but did not apply because of the stipulation in the advertisement regarding qualification. But the march of events cannot be reversed. The clock cannot be set back. The test was held on 27/28.07.2013, the result whereof has been announced and presumably the selected candidates have been appointed. But by interim orders passed in CWPs No.387, 4980, 10087, 21012 and 21646 of 2014 posts in the respective categories of the petitioners have been ordered to be kept vacant. In these circumstances, it is but fair that the benefit of the interim orders enures to the petitioners in these cases. The argument of the respondents that a written examination be conducted for these reserved posts, wherein, all the candidates who possessed the degree of Electrical and Electronic Engineering on the date of advertisement be permitted to participate would not be fair and equitable in the circumstances, as such candidates had neither applied in response to the advertisement nor challenged the condition in a court of law. But fairness and equality of treatment would require that the benefit be extended to all such candidates who like the petitioners possess the degree of Electrical and Electronic Engineering and had taken the test on 27/28.7.2013, even though they may not have filed writ petitions.

Accordingly, the petitions are disposed of with the following directions:

CWPs No.387, 4980, 10087, 21012 and 21646 of 2014 :

A merit list of all the candidates (including the petitioners in these five writ petitions) who possess the degree of Electrical and Electronic Engineering and had taken the written test held on 27/28.07.2013 be prepared. Appointments to the posts kept reserved vide interim orders in these petitions be made from amongst those highest in this merit list.

CWP No.14710 of 2012:

The petitioner in CWP No.14710 of 2012 had appeared for the post of Junior Engineer (Electrical) advertised vide Advertisement No.CRA-272/2011 dated 16.11.2011 whereby applications for 260 posts of Junior Engineers (Electrical) were invited. He belongs to the Other Backward Classes category. He appeared in the written test and his name figured at Sr. No. 26 in the select list. But he was not appointed as he did not possess the degree in Electrical Engineering but had the degree of Electrical & Electronic Engineering, which he had acquired from Punjab

University. Only 45 candidates (including the petitioner) had cleared the written test. Hence, a fresh advertisement No.CRA-276/2012 was issued inviting applications for 215 posts of Junior Engineers (Electrical) which had remained unfilled. There is nothing on record to indicate that he had applied pursuant to the 2012 advertisement. There is no interim order in this case for keeping any post vacant for the petitioner. In the facts of this case the only direction that can be issued, is that, if there exists any unfilled post from among the 260 posts of Junior Engineers (Electrical) advertised vide advertisement No.CRA-272/2011, (after excluding those reserved vide interim orders referred to above), the petitioner be offered appointment against the same.

May 27, 2015.
Atul

(HARINDER SINGH SIDHU)
JUDGE