

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 07.07.2015

C.W.P.No.5113 of 2015

Jagir Singh & others

...Petitioners

Versus

Lala Lajpat Rai University of Veterinary & Animal Sciences, Hisar & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE LISA GILL**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Subhash Ahuja, Advocate, for the petitioners.

Mr. D.S.Rawat, Advocate, for respondent Nos.1 & 2.

Mr. Pritam Saini, Addl. AG, for respondent Nos.3 & 4.

HEMANT GUPTA, J.

The petitioners, who are Class-IV employees working as Sweeper -cum- Chowkidar in the Government Veterinary Hospital/Dispensaries in the State of Haryana, have invoked the writ jurisdiction of this Court for quashing of the condition contained in the Prospectus for the year 2014-15 reserving seats for “in service candidates” of Department of Animal Husbandry & Dairying, Government of Haryana from amongst ‘all Class-IV employees of Animal Husbandry & Dairying Department, whose posts are or have been merged into one category i.e. Animal Attendant or Laboratory Attendant after restructuring/rightsizing of

posts as per letter dated 12.07.2007 issued by the Director General, Animal Husbandry & Dairying Department’.

Respondent No.1 – University invited applications for admissions to Veterinary & Livestock Development Diploma (VLDD); Diploma in Veterinary Laboratory Technology (DVLT) and Diploma in Dairy Technology (DIDT) Courses. For VLDD Course, the minimum qualification is 10+2 in any stream with 50% marks for General category candidates and 40% for Scheduled Castes candidates. However, in respect of “in-service candidates” of Department of Animal Husbandry & Dairying, Government of Haryana, the relevant condition is as under:

“RULES AND REGULATIONS GOVERNING ADMISSION

- xx
- xx
- 2.10.1.2
- FOR INSERVICE CANDIDATES OF DEPARTMENT OF ANIMAL HUSBANDRY & DAIRYING, GOVERNMENT OF HARYANA.
- (a)
- Educational qualifications are the same as mentioned under Point No.2.10.1.1.
- (b)
- He should be serving on any of the posts as mentioned in Chapter-V, Point No.C(ii)
- (c)
- He should have a minimum of 5 years experience of working on any of these posts on the last date of submission of application form.
- (d)
- He should have a good service record.
- xx
- xx

CAPTER-V
ADMISSION CAPACITY

1.
- The tentative number of seats available for admission to the three Diploma Courses for the year 2014-15 is given below:
- xx
- xx
- C.
- ADDITIONAL SEATS FOR VLDD COURSE ONLY:
- (i)
- FOR INSERVICE CANDIDATES OF : xx
- LUVAS

(ii) FOR THE INSERVICE CANDIDATES : 06
OF DEPARTMENT OF ANIMAL
HUSBANDRY & DAIRYING,
GOVERNMENT OF HARYANA

All Class-IV employees of Animal Husbandry & Dairying Department, whose posts are or have been merged into one category i.e. Animal Attendant or Laboratory Attendant after restructuring/rightsizing of posts as per Director General, Animal Husbandry & Dairying Office letter No.24613-718 Plg dated 12.07.2007 are eligible for admission. The concerned Deputy Director, Animal Husbandry & Dairying, Haryana has to clearly certify the same in Annexure-IX and no cutting and overwritings in this regard will be accepted. The candidate should possess the required minimum eligibility qualifications as mentioned under Point No.2.10.1.2 of Chapter-IV.”

It may be noticed that on 12.07.2007 vide Annexure P-5, the existing nomenclature of the posts of Class-IV employees in the Department were reduced to five such as (i) Daftri; (ii) Jamadar; (iii) Peon; (iv) Sweeper -cum- Chowkidar; & (v) Attendant (Animal/Field/Senior Scale).

The argument of learned counsel for the petitioner is that restricting the right of admission to only Class-IV employees working as Animal Attendant or Laboratory Attendant of Animal Husbandry & Dairying Department, is arbitrary and discriminatory, as all Class-IV employees have to be treated in a non-discriminatory manner and the benefit of reservation is to enure for benefits of all Class-IV employees irrespective of nature of their work.

In the reply filed on behalf of respondent Nos.1 & 2, the stand of the University is that admissions for the session 2014-15 are already over, therefore, the present writ petition is rendered infructuous. It was also stated that the admission is based upon entrance test conducted by the University,

which is open for all eligible candidates. It is pointed out that additional seats have been created for Class-IV employees i.e. 2 seats for LUVAS, Hisar; 6 seats for the Department of Animal Husbandry & Dairying, Haryana; & 4 seats for Animal Husbandry Department, Delhi. However, such seats have been created only for those in-service candidates, who are doing work related with Animal Husbandry and Dairying. No employee, who is working on the post other than related with Animal Husbandry and Dairying has been made eligible for these additional seats. It is pointed out that since the work of the petitioners, who are working on the post of Sweeper -cum- Chowkidar, is not related with the Animal Husbandry and Dairying, their category has not been made eligible for granting admission against additional seats created for in-service candidates.

On the other hand, the stand in the written statement on behalf of respondent Nos.3 & 4 is that Group-D employees i.e. Sweeper -cum- Chowkidar, Peon, Jamadar, Daftri employed in Government Veterinary Hospital/Dispensaries were demanding that they are also entitled to get admission in Veterinary & Livestock Development Diploma course, as their pay scale and posts are the same as that of Animal Attendants and Laboratory Attendants. However, the University refused to consider the Sweepers for admission in the said Course because their nature of job is altogether different from those of Animal Attendant etc. vide letter dated 27.10.2005. The Department has again requested the University to reserve the posts of Sweeper and Beldar for admission in Veterinary Livestock Development Diploma course, but such request was again declined.

Learned counsel for the petitioners has referred to a Single Bench judgment of this Court reported as Dimple Jain & another Vs. Post

Graduate Institute of medical Education & Research, Chanidgarh & others
1997 (3) RSJ 165 to contend that restricting right for admission to a category of Class – IV employees is discriminatory.

On the other hand, learned counsel for respondent Nos.1 & 2 – University has pointed out that additional seats have been created for a particular class of employees, so as to provide an opportunity to improve their working skills. The work of the petitioners as sweeper -cum- chowkidar is unrelated to the academic courses in which they intend to seek admission. The Animal Attendant or Laboratory Attendant are dealing in the related subjects, in which diploma courses are being run, therefore, the additional seats have been created for a specific category and with a purpose in mind. Thus, the petitioners cannot be considered eligible for admission against the reserved seats.

In Dimple Jain's case (supra), relied upon by the learned counsel for the petitioners, the learned Single Judge has found that restricting admission to the M.Sc. Medical Technology courses to only such candidates as are regular employees of Government Department / Medical College for the last at least three years and are sponsored / deputed by employer was violative of Article 14. The Post Graduate Institute of Medical Education and Research (PGIMER) introduced a fresh course of M.Sc. in Speech and Hearing for which admission was restricted to the regular employees of the Government Department / Medical College for the last at least 3 years. The Court found that the PGIMER was conducting a degree course of B.Sc. (Audiology and Speech Therapy) and the petitioners having passed the said examination, fulfilled the academic qualifications prescribed by the Institute for admissions to the Post Graduate Course. The Court found that reserving

seats for the candidates, who have been in regular service, is with the declared object to train persons for teaching the B.Sc. students. Once the object is to select candidates, who can be imparted higher training and education so as to be able to teach the degree classes, therefore, such purpose can be served by not restricting the admission only to the regular employees. The Court held to the following effect:

“10. The power to identify sources does not entitle the Institute to act arbitrarily or to ignore meritorious candidates. Admittedly, the admission has to be made on the basis of merit after an entrance test. All eligible candidates should be permitted to complete. The best persons should be selected. The action of the Institute in reserving all the seats for persons working in Government departments or affiliated medical colleges is wholly arbitrary and cannot, thus, be sustained. At best the respondents can ask the candidates to give an undertaking or execute a bond to serve as teachers if the job is offered to them on qualifying the examination. However, the action of the respondents in excluding the petitioners from consideration cannot be sustained. Since the course has already commenced, it does not appear to be fair to direct that they should be admitted this year. The respondents are directed to consider their claim for admission in the next session.”

We do not find that aforesaid judgment provides any assistance to the argument raised. In the present case, the admissions are sought against the additional seats, which are reserved for in-service candidates, as against the seats in PGIMER, where all the seats were reserved for the Government employees having at least 3 years. The only benefit of being an “in-service candidate” is the minimum qualification is 10+2 in any stream with 50% marks for General category candidates and 40% for Scheduled Castes candidates is relaxed. All candidates have to appear in the entrance test. Since the seats in the present case are additional and reserved for in-service candidates, the conditions of eligibility to fill such seats rest with the authority

creating such additional seats. The decision to restrict admissions to diploma courses to the “in-service candidates” working in the related field cannot be said to be arbitrary or irrational. It cannot be said to be discriminatory. It is a reasonable classification based upon experience working as Animal Attendant or Laboratory Attendant to be eligible to undergo diploma courses. Such classification cannot be said to be without any reasonable basis, which may warrant interference by this Court in exercise of its writ jurisdiction.

Consequently, the present writ petition is dismissed.

(HEMANT GUPTA)
JUDGE

07.07.2015
Vimal

(LISA GILL)
JUDGE