

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

1. **Date of decision: 17.02.2016**
CWP No.10441 of 2011 (O&M)

Bhisham Chand and another

.....Petitioners

Versus

**Haryana State Industrial and Infrastructure Development Corporation
Ltd. & others**

.....Respondents

2. **CWP No.14242 of 2012 (O&M)**

Surender Kumar

.....Petitioner

Versus

**Haryana State Industrial and Infrastructure Development Corporation
Ltd. & others**

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. Namit Kumar, Advocate,
for the petitioners (in CWP No.10441 of 2011).**

**Mr. Neeraj Kumar, Advocate,
for the petitioners (in CWP No.14242 of 2012).**

**Mr. Dheeraj Chawla, Advocate,
for the respondents (in CWP No.10441 of 2011).**

**Ms. Arpana Sharma, Advocate,
for Mr. P.K. Dwivedi, Advocate,
for respondent Nos. 1 to 4 (in CWP No.14242 of 2012)**

Ritu Bahri, J.

This order will dispose of CWP Nos.10441 of 2011 and 14242 of

petitions. For reference, facts are being taken from CWP No.10441 of 2011.

The petitioners are seeking direction to the respondents to promote them on the posts of Assistants without insisting on the condition that they should be Graduate.

Initially, the petitioners were appointed as Clerk-cum-Typist in the respondent-corporation. Petitioner No.1 was appointed in the year 1983 and petitioner No.2 was appointed in the year 1978. Since their appointment, the performance of the petitioners has been good as per copies of ACRs (Annexure P-1 collectively). Petitioner No.1 was promoted as Junior Assistant vide order dated 07.12.1994 (Annexure P/2-A) and petitioner No.2 was promoted in the year 1992. The petitioners were matriculates and were eligible for promotion to the post of Assistant as per the promotion policy of respondent-corporation. Thereafter, the Joint Secretary to Government of Haryana (General Administration) issued a letter dated 04.03.2010, mentioning therein that the qualifications were upgraded from Matric to Graduation for the post of Clerk, Steno-Typist and Stenographers respectively. Thereafter, the petitioners were not promoted. Later on, the respondent-corporation in its 296th meeting (Annexure P-11) decided to relax the minimum qualification for promotion of Clerk-Typist/Record Keeper/Junior Assistant to the post of Assistant from Graduate to Matric. However, the said proposal was rejected on 26.05.2008 (Annexure R-1).

The petitioners have referred to the decision taken by the Government on 04.03.2010 (Annexure P-3), whereby it was decided that the Government instructions dated 05.02.1992 and 10.02.2010 be kept in abeyance.

The decision taken by the respondent-corporation to enhance the qualification from Matric to Graduate was based on the instructions dated

05.02.1992 and those instructions were kept in abeyance vide Annexure P-3. It was further clarified that the qualifications for Clerks, Steno-Typists and Stenographers would be the same as those were prior to the instructions dated 05.02.1992. As per instructions dated 05.02.1992, qualifications for the post of Clerks, Steno-Typists and Stenographers for the Government departments were amended and upgraded from Matric to Graduation. However, vide letter dated dated 04.03.2010 (Annexure P-3), these instructions were kept in abeyance. The necessary implication of Annexure P-3 would be that the petitioners, who were promoted as Junior Assistants way back in the years 1992 and 1994 were duly eligible to be promoted for the next higher post.

Petitioners (by way of CM No.7278 of 2015) have placed on record affidavit of Bhisham Chand-petitioner No.1, wherein it has been stated that in the years 2001 and 2002 two persons, namely, Shri Vikas Verma and Shri Sikander Lamba were appointed as Clerks on 06.02.2001 and 07.03.2002 although they were 10+2 and not Graduate. This information was sought by the petitioners under the Right to Information Act, 2005 (RTI).

Thereafter, in compliance with the order dated 27.01.2016 passed by this Court, affidavit dated 10.02.2016 has been filed by Sandeep Chawla, Additional General Manager (P&A), HSIIDC on behalf of the respondents, wherein it has been explained that compassionate appointments under ex-gratia scheme have been given to four persons, namely Sh. Jagmohan Singh Negi, Sh. Sikandar Lamba, Sh. Vivek Verma and Sh. Surender Kumar. They have been appointed as Clerks. They did not possess the degrees of graduation, therefore, the rules were relaxed as a special case by the Board

held on 17.01.2001 (Annexures R-2 and R-3).

Once the respondents had given compassionate appointment to the aforesaid persons by relaxing qualification from Graduate to Matric, the case of the petitioners can also be considered for promotion to the posts of Assistants being matriculates as per clarification dated 04.03.2010 (Annexure P-3). Moreover, the petitioners are working on the posts of Clerks since 1983 and 1978 respectively.

Keeping in view that the respondent-corporation has already granted relaxation to the aforesaid four persons (as per affidavit dated 10.02.2016), both these petitions i.e. CWP No.10441 of 2011 and CWP No.14242 of 2012 are disposed of by giving directions to the respondents to promote the petitioners to the posts of Assistants after taking into consideration the instruction/clarification (Annexure P-3) and pass appropriate orders accordingly.

17.02.2016
ajp

(RITU BAHRI)
JUDGE