

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.14499 of 2012
Date of decision: 26.5.2016

Jaspreet Singh

...Petitioner

Versus

Punjab State Power Corporation Limited

...Respondent

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Ashish Verma, Advocate for the petitioner.

Mr. Vikas Chatrath, Advocate for the respondent.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks declaration for being eligible for the post of Upper Division Clerk (UDC) against advertisement dated 16.11.2011 (Annexure P/1) whereby 200 posts of UDC (General) were advertised. The relevant portion of the advertisement reads as under:-

Sr. No.	Name of post	No. of Posts	Basic and professional qualification	Pay scale
5	b) UDC (General)	200	Full time regular Graduation in Sc./Commerce/Arts with minimum 60% marks with one year course equivalent to PDGCA Course (O level certificate) of Department of Electronics and Accreditation of Computer Course (DOEACC) of Govt. of India or a Govt. recognized Institution which is ISO-9001 certified. OR Full time regular BCA with minimum 60% marks.	6400-20200+Rs.3050 Grade Pay.

It is case of the petitioner that thereafter corrigendum was issued and the qualification was modified which reads as under:-

“E) Graduation in Engineering (in any discipline)/medicine/Dental Surgery/Bachelor of Pharmacy, Bachelor of Physiotherapy etc. is not covered to the eligible criteria for the post of UDC (General). The candidates having Bachelor in Arts(BA), Bachelor in Science (B.Sc.)

and Bachelor in Commerce (B.Com.) or Bachelor in Computer Application (BCA) are only eligible to apply subject to other qualifying conditions as mentioned against the post of UDC (General).”

It is further case of the petitioner that he has done B.Sc. (Biotechnology) and he was fully eligible to apply the post of the UDC and therefore, he had been wrongly kept out for consideration though he was falling in the zone of consideration on the strength of marks obtained in graduation of science subjects.

The defence of the respondent-Corporation that the selected candidates have not been impleaded and in their absence no relief can be granted is well justified, as their interest is involved and at their back no order can be passed. Further the case of the respondent-Corporation is that the petitioner is possessing a degree of a course which was of technical in nature and said qualification was not required for the post of UDC. Reliance has been placed upon the judgment of this Court in **Civil Writ Petition No.22887 of 2012-Parampal Singh Bhasin Vs. Punjab State Transmission Corporation Ltd. and another** decided on 4.4.2014. In the said case, the petitioners were holding degree of Bachelor of Pharmacy and Bachelor of Technology (Computer Science) and wanted to be treated as Bachelor of Science so that they could be considered for the post of UDC. This Court rejected the said argument while noticing that the requisite qualification for the post of UDC was Graduate in Science/Commerce/Arts. Therefore, for the post of UDC, the petitioners were not holding the requisite qualifications and they could not be appointed on the said post. It was also noticed that issue of qualification is a subject matter which is basically to be of the satisfaction of the employer. Relevant portion reads

as under:-

“The facts are not in dispute in the present case. The question that requires consideration is as to whether the petitioners who are Bachelor of Technology/Bachelor of Pharmacy, can be considered/treated as Bachelor of Science. Petitioners have got specialized degrees and have obtained the degree of Bachelor of Technology/Bachelor of Pharmacy. In my considered view, they cannot be equated with the persons who are graduate in science. Although, petitioners took the written test and their names appeared in the merit list but while checking the original documents/certificates, the sub committee noticed that the petitioners possessed the qualifications of Bachelor of Technology (Computer Science)/Bachelor of Pharmacy and were, thus, disqualified for the post of U.D.C (General). So far as the petitioners are concerned, as per the reply submitted by respondents No. 1 and 2, the committee returned the original documents of the petitioners to them at the spot as they were not qualified for the post of U.D.C (General). Petitioners who have attained the degree of Bachelor of Technology/Bachelor of Pharmacy, cannot be said to be possessing the degree of Bachelor of Science. So far as the post of U.D.C. (General) is concerned, the requisite qualification was Graduate in Science/Commerce/Arts. Since the petitioners were not holding the requisite qualification, they could not be appointed to the post of U.D.C.(General).

In these circumstances, there is no merit in these petitions and, consequently, both the petitions are ordered to be dismissed.”

Reference can be made to made to the Full Bench decision of this Court in Som Dutt Vs. State of Haryana and another 1984(1) ILR (Punjab) 400 wherein it has been held that the employer can insist on strict adherence to the prescribed minimum qualification and the applicant cannot insist for being considered for the post. The relevant observations read as under:-

"15. To conclude, the answer to the question posed at the out-set is

rendered in the affirmative and it is held that where the qualifications for a post are spelt out by a statute, or precisely prescribed by the employer-State, it can insist on a literal adherence thereto irrespective of either an unprescribed equivalent or a higher academic qualification therefrom possessed by applicants seeking appointments to those posts."

Resultantly, this Court is of the opinion that non consideration of the petitioner on such ground is on the basis of valid criteria and not liable to be interfered with in exercise of jurisdiction under Article 226 of the Constitution of India.

Accordingly, the present writ petition is dismissed.

May 25, 2016
Pka

(G.S.SANDHAWALIA)
Judge