

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

1. CWP No.14734 of 2013
Date of decision:07.09.2016

Anil Kumar
.....Petitioner

Versus

Union of India and others
.....Respondents

2. CWP No.14527 of 2013

Ram Bharosee Meena
.....Petitioner

Versus

Union of India and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Rajeev Anand, Advocate,
for the petitioner(s).

Mr. J.S. Lalli, Advocate,
Senior Panel Counsel
for respondent No. 5.

P.B. BAJANTHRI, J. (Oral)

This order will dispose of two petitions bearing CWP Nos.14527 and 14734 of 2013 as common questions of law and facts are involved therein. However, facts have been extracted from CWP No. 14734 of 2013.

In the instant writ petition, the petitioner has questioned the validity of the communication dated 05.04.2012 by which the petitioner's candidature for the post of Head Constable/Motor Mechanic has been rejected for want of prescribed qualification.

The petitioner was appointed as Constable Motor Mechanic in the year 2009. The respondents have advertised to fill up various posts. One of the post is Head Constable/Motor Mechanic in

the year 2012. The petitioner is stated to be one of the candidate for the recruitment and he had applied for the post. The respondents after examining the application as well as qualification with reference to the Rules governing the post of Head Constable/Motor Mechanic rejected the petitioner's candidature for not fulfilling the qualification prescribed for the post of Head Constable/Motor Mechanic.

The learned counsel for the petitioner vehemently contends that admittedly the petitioner did not fulfill the prescribed qualification of three years practical experience in the trade in reputed workshop or three years diploma in Automobile Engineering, however, in so far as three years practical experience is concerned, it can be relaxed in view of the official memorandum dated 30.01.2008 issued by the Government of India, Ministry of Labour and Employment, Directorate General of Employment and Training, Model Industrial Training Institute ITI Campus, Shastri Nagar Jodhpur. He also relies on one more official memorandum dated 31.10.1983 issued by the Ministry of Labour and Rehabilitation, Department of Labour, Directorate General of Employment and Training, New Delhi and further relies on communication by the Ministry of Labour and Rehabilitation, New Delhi issued on 10.08.1984 addressing to all the State Apprenticeship Advisors, all the Regional Directors of Apprentice training. In the aforesaid official memorandum and communication it is stated that experience qualification could be equated to that of various courses and experience could be relaxed. The respondent-recruiting authority has

not taken note of. Therefore, the impugned communication that the petitioner do not fulfill the prescribed qualification of three years practical experience in the trade cannot be insisted. Thus the impugned order is liable to be set-aside

Per contra learned counsel for the respondent No.5 submits that the post of Head Constable/Motor Mechanic is governed by the Regulations/Rules by which method of recruitment to the post of Head Constable and prescribed qualification, designation mode of recruitment has been stated. For the purpose of deciding the present matter qualification is relevant. The extract of the qualification reads as under:-

***“(i) Matriculation
(ii) Certificate in Motor Mechanic from a recognized institution/Industrial Training Institute with three years practical experience in the trade in a reputed workshop or three years Diploma in Automobile Engineering.”***

The post of Head Constable/ Motor Mechanic for direct recruitment matriculation and three years of practical experience in the trade or three years diploma in Automobile Engineering is mandatory under the Rules/Regulations. There is no provision for relaxation of practical experience in the trade. Reliance placed by the learned counsel for the petitioner that the Central Government OM dated 30.01.2008 and 31.10.1983 read with communication dated 10.08.1984 for waiver of three years experience cannot be accepted. Unless and until recruitment is amended appropriately. Thus there is no infirmity in the impugned communication stating that the petitioner do not fulfill the experience qualification prescribed for the post by Rules.

Heard learned counsel for the parties.

The short question for consideration is whether the petitioners are eligible to participate in the process of recruitment to the post of Head Constable (Motor Mechanic) or not. The qualification prescribed for the post is matriculation, certificate in the motor mechanic from a recognized institution/ Industrial Training institute with three years experience in the trade in reputed workshop or three years diploma in Automobile Engineering. The petitioners do not fulfill the qualification of three years practical experience. Therefore, they are not eligible to participate in the process of recruitment. Reliance on the Government of India OM dated 30.01.2008 and 31.10.1983 read with communication dated 10.08.1984 by which the petitioners are seeking relaxation of experience qualification is impermissible for the reasons that the post of Head Constable (Motor Mechanic) is governed by the Rules. As long as rules of recruitment is not amended appropriately for the purpose of relaxation of three years practical experience, the petitioners are not entitled for relaxation of three years practical experience with reference to the official memorandum issued by the governed of India. Therefore, there is no infirmity in the impugned communication dated 05.04.2012

Petitions stand dismissed.

07.09.2016

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(P.B. BAJANTHRI)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No