

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

Civil Writ Petition No.20765 of 2012

Date of decision: 29.7.2016

Vinod Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Jagbir Malik, Advocate,
for the petitioner.

Ms.Shruti Jain Goyal, AAG, Haryana.

Mr.H.N.Mehtani, Advocate,
for respondent No.3.

Mr.Shailendra Jain, Sr. Advocate, with
Ms.Manu Chaudhary, Advocate,
for respondent No.7.

RAJIV NARAIN RAINA, J. (Oral)

1. Mr.Jagbir Malik has raised three fold arguments in challenge to the selection of Dental Surgeons in the Health Department, Haryana.

2. It is his first contention that the recruitment rule makes the successful candidates eligible who are not registered practitioners in Haryana. His grievance is that the Dental Surgeons registered with other State Dental Councils have been made eligible for appointment and the competition should have been restricted to Haryana. In other words, his

grouse is that the zone of consideration has been expanded beyond rules and diminishes his chances of making it to the merit list. This argument is only good enough to be noticed and rejected. The rule making authority has prescribed the eligibility condition which places no restrictions on territories where a Dental Doctor is registered with as a practitioner, which expansion in my view is consistent with Article 16 (3) of the Constitution of India and makes no distinction or discrimination amongst the applicants who may apply from throughout India and whose names are registered in the respective State Dental Councils. I would, therefore, reject this argument as misdirected.

3. The second contention is that candidates have been selected who have not qualified Hindi till Matric standard. The other side points out that in the advertisement itself, candidates who read Hindi/Sanskrit in Class 10th would be eligible for consideration for selection. On this Mr.Malik contends that the rule of recruitment cannot be replaced by departmental instructions. But I see no vice of replacement here. Hindi remains standing in the rule while knowledge of Sanskrit language in Class X is supported by the Executive Instructions issued by Haryana Government on 14.5.2007 where the Government has considered and decided that there is no doubt that Hindi has evolved as a distinct language from Sanskrit over centuries but the fact remains that Sanskrit language is a root language for Hindi, and furthermore, a student on having passed Class X examination with Sanskrit as a subject would definitely possess a functional knowledge of Hindi, since it is also the prevalent language in use in Haryana, and which is also the requirement for obtaining a job in Haryana Government and its various departments.

4. In these circumstances, Haryana Government had decided that for purposes of recruitment/appointment to a job, Hindi up to Matriculation standard has been made as one of the essential qualifications and thus Hindi or Sanskrit up to Matriculation standard should be made as one of the essential qualifications. The Chief Secretary, Haryana had requested in the instructions all Heads of Departments etc., that necessary amendments in the service rules be carried out without delay. A copy of the instructions has been produced by Ms.Shruti Jain Goyal and are retained on record as Mark 'A'. These instructions in my view do not supplant rules. They are supplementary in nature which is permissible legislation under Article 162 of the Constitution.

5. A third argument is sought to be raised by Mr.Malik in challenge to the selection and appointments of the private respondents that certain candidates have been appointed who did not qualify essential qualifications from recognized institutions. This assertion in para. 6 of the writ petition has been refuted by the State and the Haryana Public Service Commission in their respective replies. No replication has been filed to rebut the statement made in the written statements and therefore those assertions are accepted as true and correct on the ground of non-traverse.

6. In any case, it is argued by the respondent Counsel that the petitioner applied for the post and took his chances in the selection process and challenged the selection on failure in which process he participated without raising any objection either before the State Government or the Commission or this Court or any other Forum except by way of this petition.

7. I, therefore, in the facts and circumstances, find hardly any merit in the above contentions to upset the selection and appointments of

the private respondents and would dismiss the petition being devoid of merit.

(RAJIV NARAIN RAINA)
JUDGE

July 29, 2016
Paritosh Kumar

Whether speaking/reasoned : Yes
Whether reportable : No