

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

**CWP No.15718 of 2014
Date of decision: 08.11.2016**

Sandeep Singh

..Petitioner

Versus

**The Punjab State Power Corporation Limited
and others**

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. Manu K. Bhandari, Advocate
for the petitioner.

Mr. Vikas Chatrath, Advocate
for respondents No.1 to 3.

Mr. Harsh Goyal, Advocate for
Mr. Tribhawan Singla, Advocate
for respondent No.4.

Daya Chaudhary, J.

The prayer in the present writ petition is for issuance of a writ in the nature of certiorari for quashing of impugned order dated 11.07.2014 (Annexure P-12), whereby, the claim of the petitioner for appointment to the post of Assistant Engineer has been rejected. A further prayer has also been made for issuance of a writ in the nature of mandamus directing the respondents to appoint the petitioner on the post of Assistant Engineer against the reserved category as per result (Annexure P-5).

Briefly, the facts of the case as made out in the present writ petition are that the claim of the petitioner for appointment to the post of Assistant Engineer has been rejected on the ground that his degree of Bachelor of Engineering in Instrumentation is not according to the advertisement issued by the respondents as it was provided that the

candidates should have possessed degree of Bachelor of Engineering in Instrumentation and Control. The petitioner applied in pursuance of advertisement dated 10.05.2012 as total 15 posts of Assistant Engineer Instrumentation and Control were to be filled up. As per advertisement, the requisite qualification was that a candidate should have possessed regular degree of Bachelor of Engineering in the discipline of Instrumentation and Control. The petitioner was possessing equivalent degree of Engineering and belonged to SC category, so he applied for the said post. Thereafter, he appeared in the written examination, which was held on 27.10.2013. A list of candidates for checking of documents was displayed. The name of the petitioner was at Sr. No.10 of said list. He secured 53 marks. A letter was issued to the petitioner seeking clarification with regard to his degree of Instrumentation and Control and other documents, which was duly responded by him. The petitioner also approached the Punjab Technical University, Jalandhar seeking clarification with regard to course curriculum of B.E. Instrumentation Engineering whereafter, it was clarified that the course curriculum of BE Instrumentation Engineering is equivalent to the course of BE Instrumentation and Control for the purpose of employment. All relevant documents were supplied by the petitioner along with clarification issued by the Punjab Technical University, Jalandhar. However, the degree of the petitioner was not considered equivalent to the degree required in the advertisement. The claim of the petitioner was not considered in spite of supplying all the documents. Thereafter, the petitioner approached this Court by way of filing CWP No.10983 of 2014, which was disposed of vide order dated 29.05.2014 with a direction to the respondents

this Court, the case of the petitioner was not considered. Thereafter, a contempt notice was issued and thereafter, impugned order dated 11.07.2014 was passed, whereby, the claim of the petitioner was rejected on the ground that the petitioner did not have degree of Bachelor of Engineering in Instrumentation and Control. It was also mentioned that the petitioner had intentionally mentioned his qualification as Bachelor of Engineering in Instrumentation and Control instead of Bachelor of Engineering in Instrumentation.

The impugned order has been challenged by raising various grounds.

Learned counsel for the petitioner submits that the degree of the petitioner is equivalent to the degree of Bachelor of Engineering in Instrumentation and Control and the same has been clarified by the Punjab Technical University, Jalandhar also. Learned counsel further submits that the detailed mark sheet along with the subjects of Control during the course of study was also supplied, which shows that the petitioner had studied the subjects of Control and Instrumentation. Learned counsel further submits that the petitioner was a meritorious student as he cleared the examination by getting good marks but still his claim has been rejected on the vague ground. The mistake, if any, was bonafide as the petitioner mentioned degree of Bachelor of Engineering in Instrumentation and Control. Learned counsel for the petitioner has relied upon judgment of this Court in ***Mrs. Indra Beniwal vs. Haryana Public Service Commission, 1994(2) SCT 761*** in support of his contentions wherein the same issue was there as petitioner in that case was possessing the equivalent qualification i.e., MA in

holding that the petitioner was entitled for consideration keeping in view her equivalent degree.

Mr. Vikas Chatrath, learned counsel appearing for respondents No.1 to 3 opposes the submissions made by learned counsel for the petitioner and submits that the petitioner has intentionally shown himself to be possessing the requisite qualification whereas the degree possessed by him is different. The petitioner does not possess the requisite qualification as mentioned in the advertisement. The petitioner has concealed material facts as he wanted to take advantage in spite of the fact that he was not having the requisite qualification. Learned counsel further submits that the process of selection is over and the petitioner does not fulfill the essential qualification as laid down in the advertisement and as such, the present writ petition is liable to be dismissed. Learned counsel for respondents No.1 to 3 has also relied upon judgment of Hon'ble the Supreme Court in *State of Haryana and others vs. Jagroop Singh*, 2003(2) SCT 226 SC, *District Collector & Chairman Vizianagaram (Social Welfare Residential School Society) Vizianagaram and anr. vs. M. Tripua Sundari Devi*, 1990 (4) SLR 237 and judgments of this Court in *Vikas Sharma vs. State of Haryana and others*, CWP No.19263 of 2012 decided on 20.01.2014, *Dhani Ram vs. State of Haryana and others*, 2005(1) SCT 571 (DB), *Ajay Kumar vs. State of Haryana*, 2004(2) RSJ 248 DB, *Narender Singh Kundu vs. Haryana Vidyut Prasaran Nigam Ltd. and others*, 2004(4) RSJ 613, *Manju Rani vs. State of Haryana and others*, 2016(2) SCT 616 and *Gurpal Singh vs. Punjab State Electricity Board*, CWP No.8156 of 2010 decided on 07.07.2014.

way of short affidavit of Registrar, Punjab Technical University, Jalandhar but no relief has been claimed against respondent No.4.

Heard arguments of learned counsel for the parties and have also perused the impugned order as well as other documents available on the file.

The facts with regard to publication of advertisement, number of posts and process of selection are not disputed. It is also not disputed that the petitioner is possessing the degree of Bachelor of Engineering in Instrumentation whereas for the post of Assistant Engineer, Degree of Bachelor of Engineering in Instrumentation and Control or its equivalent is required.

As per advertisement (Annexure P-3), the requisite qualification for the post of Assistant Engineer is as under: -

<i>Sr. No.</i>	<i>Name of Post</i>	<i>Post Code</i>	<i>No. of Posts</i>	<i>Basic and professional qualification</i>	<i>Pay scale</i>
1.	Assistant Engineer (On Training)			Full time regular BE/ B.Tech/ B.Sc. Engineering with a minimum of 60% marks or equivalent degree recognized by AICTE or AMIE with 60% marks from Institution of Engineers (India) Calcutta in the discipline of : -	16650-39100+Rs.5800 Grade pay
	a) AE(OT)/ Electrical	11	287	Electrical Engineering	
	b) AE(OT)/ Mechanical	12	9	Mechanical Engineering	
	c) AE(OT)/ Instrumentation and Control	13	15	Instrumentation & Control Engineering	
	d) AE(OT)/ Electronics & Communication	14	12	Electronics & Communication Engineering	
	e) AE(OT)/ Civil	15	12	Civil Engineering	

As per case of the petitioner, he applied by considering his qualification as equivalent to BE Instrumentation and Control but his claim was rejected on the ground that his degree was not equivalent to the degree required as per advertisement. A certificate issued by the Punjab Technical University, Jalandhar has also been relied upon by the petitioner, which was also shown to the respondents wherein it was mentioned that the course curriculum of both the degrees i.e., degree of the petitioner as well as the degree mentioned in the advertisement was the same as the subject of Control was also studied by the petitioner as is clear from the result card of 4th and 5th semester examination.

Undisputedly, the name of the petitioner was in the list of successful candidates but his claim was rejected on the ground that his degree was not equivalent to the degree required for the employment. It has been submitted by learned counsel for respondents No.1 to 3 that it was within the domain of the respondent-authorities to prescribe the qualification for a post and order of rejection was rightly passed.

Learned counsel for respondents No.1 to 3 has relied upon judgment passed in **Manju Rani's case (supra)** wherein it has been mentioned that it is the employer, who has to prescribe the qualification required for a particular post and the Court is not an expert in seeing the qualification required for a particular post and the petition was dismissed.

Now the question for consideration before this Court is as to whether the qualification of the petitioner can be considered as equivalent to the qualification required by the respondents in the advertisement.

Same issue was there before this Court in ***Dhan Raj Singh vs.***

mandamus from the Court to consider his case for the post of Works Manager in view of advertisement issued by Haryana Public Service Commission. The required qualification was degree in Mechanical or Automobile Engineering from a recognised University. The petitioner in that case applied for the said post on the basis of equivalent qualification. It was held by this Court that the word “Equivalent” is to be considered in case, same degree has been recognised by the expert body and that equivalent degree was recognised not only by the University but by State of Haryana also after which, the claim of the petitioner was considered as per directions issued by this Court.

Similarly in another judgment of Division Bench of this Court in **Mrs. Indra Beniwal's case (supra)**, the qualification for the post of Child Development Project Officer was Master Degree in Social Work whereas the petitioner was possessing Master Degree in Sociology, which was equivalent to the qualification required in the advertisement. The writ petition was allowed by considering the equivalent degree and order of rejection was quashed. The respondents were also directed to declare the result of the petitioner.

The word 'equivalent' as per Chambers English Dictionary, means “equal in value, power, meaning, etc; interchangeable : of like combining value, a thing equivalent, an equivalent weight.....”

In the present case also, the qualification of the petitioner has been recognized equivalent by the Punjab Technical University, Jalandhar by considering the syllabus of the petitioner and the same has been recognized also. Moreover, it is specifically mentioned in the advertisement

that the candidate should possess qualification of Bachelor of Engineering

in Instrumentation and Control or its equivalent degree from the recognised University. The petitioner possessing equivalent qualification has applied for the post but his claim was rejected. While passing impugned order, the equivalent part has not been considered as to how the degree of the petitioner is not equivalent.

Undisputedly, it is for the employer to prescribe the qualification required for a particular post. The Court is not an expert in seeing the requirement of a particular post. In case, the University is issuing a certificate stating that both the degrees are equivalent then the employer cannot reject the claim of the petitioner only on the ground that the degree of the petitioner is not equivalent to the degree required in the advertisement.

The judgments relied upon by learned counsel for respondents No.1 to 3 are not applicable keeping in view the facts and circumstances of the case.

Accordingly, the present writ petition is allowed and the impugned order of rejection dated 11.07.2014 (Annexure P-12) is hereby quashed and the respondents are directed to re-consider the case of the petitioner in view of observations as made herein above and by considering the judgments as discussed above within a period of two months from the date of receipt of certified copy of this order.

08.11.2016
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

√
Yes/No

Whether Reportable

√
Yes/No