

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

Date of Decision: 23.11.2016

1. CWP No.15771 of 2015

Panjab University Staff (Non Teaching) Association and another

... Petitioners

Vs.

Panjab University, Chandigarh and another

... Respondents

2. CWP-19003-2015

Dharam Paul Sharma

... Petitioners

Vs.

Panjab University, Chandigarh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Dinesh Kumar, Advocate,
for the petitioners.

Mr. D.V.Sharma, Senior Advocate, with
Ms. Shivani Sharma, Advocate,
for the respondent-Panjab University.

Amol Rattan Singh, J.

These two writ petitions challenge the corrigendum issued by the respondent Panjab University (hereinafter to be referred to as the University), on 19.02.2013, in respect of an advertisement issued on 21.01.2013, by which applications for filling up 6 posts of Deputy Registrars in the University had been invited, from candidates eligible to be appointed to the said post.

By the corrigendum (Annexure P11 with both the writ petitions), the qualifications/eligibility conditions for the said post were sought to be revised.

In the advertisement dated 21.01.2013 (Annexure P8 with both the writ petitions), the following eligibility criteria/qualifications were prescribed for the post of Deputy Registrar (reproduced from the annexure itself):-

“Qualification

1. (i) Master's Degree with at least 55% marks (50% marks in case of SC/ST candidates) or equivalent grade thereof from a recognized University.

OR

Graduate with LL.B. degree with at least 55% marks (50% marks in case of SC/ST candidates) or equivalent grade thereof in both graduation and LL.B. from the recognized university.

- (ii) At least 8 years' experience of working in responsible

position in an education/research institution/University including experience as Principal/ Head of the Department/ Bursar/ Registrar (Exam.)/ Lecturer/ Assistant Professor/ Assistant Registrar etc. in an affiliated College.

OR

2. Graduate with CA/ICWA with at least 55% (50% marks in case of SC/ST candidates) in graduation with at least eight years' of working experience in case of CA/ICWA

OR

3. A candidate having Master's Degree or LL.B. degree with not less than 20 years' of service in a University out of which he/she must have worked as Assistant Registrar/Superintendent/P.A./ASO/ASO (Stenography) for a period of not less than 5 years

OR

4. A candidate having a graduate degree with not less than 25 years' of service in a University out of which he/she must have worked as Assistant Registrar/ Superintendent/ P.A./ASO/ ASO (Stenography) for a period of not less than five years.

Note: Candidates who had already applied to the post of Deputy Registrar in response to advertisement No.4/2011 need not apply again. However, they may send any additional information regarding their educational qualifications and

experience etc. for updating their applications/Bio-data.”

Vide the impugned corrigendum, however, a change was made and the eligibility conditions/qualifications were prescribed as follows:-

- 1(a) Master's Degree with at least 55% marks (50% marks in case of SC/ST candidates) or equivalent grade thereof from a recognised University; and
- 1(b) Nine years as Assistant Professor in the AGP of Rs.6000/- and above in Educational/Research Institution having experience in Educational Administration.

OR

Five years of administrative experience as Asstt. Registrar or in an equivalent post or above in an Educational/Research Institution.

2. A candidate with not less than 25 years of service in Panjab University out of which he/she must have worked in the capacity of Superintendent/Personal Assistant or higher position for a period of not less than 4 years, shall be eligible irrespective of qualification prescribed above at 1(a) & (b).”

2. The challenge thus, is to the changed qualifications which, as per the petitioners, has been done without proper procedure and without the approval of the competent authority.

3. The first writ petition, i.e. CWP No.15771 of 2015, has been

filed by the Panjab University Staff (Non-Teaching) Association (hereinafter to be referred to as the Association), alongwith one Baljinder Singh, who is stated to be the General Secretary of the Association, with the first petitioner, i.e. the Association, being represented through its President.

Subsequently, upon the respondent University having raised a preliminary objection in its written statement filed, with regard to maintainability of the writ petition filed by the Association, (it not being one by way of Public Interest Litigation, the petitioner in CWP No.19003 of 2015 also filed his petition, stating therein that he is one of the candidates who had applied pursuant to the original advertisement and is thereby directly affected by the corrigendum.

Both the petitions were eventually, therefore, heard together, as both of them seek the same relief.

4. The facts are being taken from the 2nd writ petition, i.e. CWP no.19003 of 2015, as the petitioner is an individual who had applied for the post and therefore, there is no issue with regard to his basic locus standi to file the writ petition, to challenge the issuance of corrigendum, though of course, an argument had been raised that the 2nd petition was an after thought and in fact, the petitioner was not eligible to apply in response to the original advertisement (though he was an applicant).

That contention, as also the issue with regard to locus of the association to challenge the corrigendum by way of CWP no.15771 of 2015, would be dealt with while considering the arguments of the learned counsel.

5. As per the petitioner (in CWP no.19003 of 2015), he was

appointed as a Clerk in the University on 24.05.1979, having joined the post on 29.05.1979. He was designated as a Junior Assistant on 06.11.1990, w.e.f. 24.05.1989. Thereafter, he officiated as a Senior Assistant w.e.f. 11.12.1996 and was promoted as an Assistant Section Officer on 28.12.2006.

He “was allowed to officiate as Superintendent” from 07.07.2009 and thereafter, to officiate as an Assistant Registrar w.e.f. 01.05.2013.

At the time of filing of the writ petition, he is stated to have been working as an Assistant Registrar, posted in the Establishment Branch of the University.

6. It is stated in the writ petition that the issue of laying down “just and proper qualifications” for posts of Deputy Registrars and Assistant Registrars had been engaging the attention of the University authorities for some time and the Association, i.e. the first petitioner in the connected writ petition, had also been demanding suitable avenues of promotion of “in service employees” to the post of Deputy Registrar, by amending the rules, so as to allow such employees to compete for the posts, by virtue of their long experience and service in the University, seen with their academic qualifications, in order to remove stagnation.

Therefore, the Vice-Chancellor is stated to have constituted a committee headed by Shri G.K.Chatrath, to review the qualifications for the post of Deputy Registrar and Assistant Registrar. The petitioner, in his capacity as the President of the Association at that time, is also stated to have been a member of the committee.

The committee made its recommendations on 25.08.2009, a copy of which has been annexed as Annexure P1 with the petition. As per the recommendation, no change was recommended for recruitment of Deputy Registrars by way of open selection, whereas in the case of employees of the University itself (“internal candidates”), changes were recommended as per the following chart:-

“For internal candidates An internal candidate with not less than 25 years in the Panjab University and who has worked as Assistant Registrar for a period of not less than four years shall also be eligible to compete for the post of Deputy Registrar, irrespective of the qualification prescribed above.	For internal candidates An internal candidate of Panjab University who possesses minimum qualification of Graduate degree from a recognized University and has worked not less than for a period of 30 years in the University and out of which not less than 5 years, he/she should have worked as A.R./Supdt./P.A./A.S.O./A.S.O. (Stenography) These qualifications will be applicable for internal candidates when the posts are advertised in the open category”
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7. The recommendations are stated to have been placed before the Syndicate of the University in its meeting held on 06.09.2009, and the recommendations of the committee are shown to have been accepted by a resolution (Annexure P2), subject to only one amendment as regards the post of Deputy Registrar, to the effect that instead of a minimum service of 30 years as recommended, it was decided to retain the minimum service criterion of 25 years.

8. Thereafter, the University is stated to have issued Advertisement no.1/2010 inviting applications for filling in six posts of Deputy Registrars,

five in the General Category and one in the Scheduled Caste category, laying down the aforesaid qualifications/eligibility criteria, only omitting from the advertisement the following words that were part of the recommendations approved by the Syndicate:-

“These qualifications will be applicable for internal candidates when the posts are advertised in the open category.”

Additionally, a note was added in the Advertisement of 2010, that “For one post experience in dealing with legal matters will be preferred”.

9. In response to the advertisement, the University is stated to have called 87 candidates, including 'in service employees', for an interview scheduled to be held on 21.08.2010 in the office of the Vice-Chancellor. However, the said interview was postponed, with an intimation to that effect sent to the candidates called, vide a communication from the Registrar of the University, dated 17.08.2010.

Copies of one such interview call letter and another of the letter of postponement have also been annexed with the petition as Annexures P3 and P4 respectively.

10. On 03.04.2011, the Syndicate is stated to have held another meeting to consider the existing and proposed qualifications for the posts of Deputy Registrar and Assistant Registrar and another committee of Syndicate members, also headed by Shri G.K.Chatrath, was resolved to be appointed, with the other two members of the committee being Shri A.S.Bedi and Shri Dayal Pratap Singh Randhawa. This committee, as per the contents of the writ petition, was to actually look into the qualifications “drafted by

the Registrar,” and thereafter to make a recommendation to the Vice-Chancellor, who was authorised by the Syndicate to take a decision in the matter.

A copy of the relevant extract of the meeting of the Syndicate, has been annexed with the petition as Annexure P5.

A perusal of the said document reveals that the Vice-Chancellor had also told the Syndicate that the screening committee that was to conduct the interviews earlier, could not “shortlist the candidates for the interview of the post of Deputy Registrars due to certain ambiguities in the prescribed qualifications”.

Consequently, the Registrar had redrafted the qualifications, which were considered by the newly constituted committee.

11. The aforesaid committee is stated to have held a meeting on 08.04.2011, also inviting Professors A.K. Bhandari and Naval Kishore as special invitees. It made the following recommendations as regards the eligibility criteria for selection to the post of Deputy Registrars:-

“For the post of Deputy Registrar

1. (i) Master's Degree with at least 55% marks (50% marks in case of SC/ST candidates) or equivalent grade thereof from a recognized University.

OR

Graduate with LL.B. degree with at least 55% marks (50% marks in case of SC/ST candidates) or equivalent grade thereof in both graduation and LL.B. from the recognized university.

- (ii) At least 8 years' experience of working in a

responsible position in an education/research institution/University including experience as Principal/ Head of the Department/ Bursar/ Registrar (Exam.)/ Lecturer/ Assistant Professor/ Assistant Registrar etc. in an affiliated College.

OR

2. Graduate with CA/ICWA with at least 55% (50% marks in case of SC/ST candidates) in graduation with at least eight years' or working experience in case of CA/ICWA

OR

3. A candidate having Master's Degree of LL.B. degree with not less than 20 years' of service in a University out of which he/she must have worked as Assistant Registrar/Superintendent/P.A./ASO/ASO (Stenography) for a period of not less than 5 years

OR

4. A candidate having a graduate degree with not less than 25 years of service in a University out of which he/she must have worked as Assistant Registrar/ Superintendent/ P.A./ASO/ ASO (Stenography) for a period of not less than five years.”

12. The aforesaid recommendation of the committee is stated to have been approved by the Vice-Chancellor on 13.04.2011, pursuant to which Advertisement no.4/2011 was issued, inviting applications for appointment to six posts of Deputy Registrars, with the aforesaid requisite qualifications.

A copy of the advertisement has been annexed as Annexure P7 with the writ petition.

13. The petitioner is stated to have applied in response to the aforesaid advertisement on application form no.1338, duly diarised with the accepting authority on 24.06.2011. It is stated in the petition that the petitioner holds two post-graduate degrees, including one in Education (M.Ed.) and also holds an LL.B. Degree from the University.

It is further stated that even after the advertisement of 2011, no interview was conducted, even though there was no valid reason for not doing so and instead, again, vide Advertisement no.1/2013, published on 21.01.2013 in leading newspapers, six posts of Deputy Registrars were again advertised, with the same qualifications laid down.

A note was added in the advertisement, to the effect that those who had already applied for the posts in response to Advertisement no.4/2011, need not apply again, though they could send any additional information regarding educational qualifications, experience etc., so as to update their bio-data.

A copy of the said advertisement has also been annexed with the petition as Annexure P8.

14. Soon after the aforesaid advertisement was issued, a member of the Syndicate is stated to have raised an issue on the qualifications for the post of Deputy Registrar, in a meeting of the Syndicate held on 27.01.2013, and as per the minutes of meeting, the discussion is reproduced as follows:-

“Shri Ashok Goyal pointed out that the qualifications prescribed in the recently given advertisement for the post of Deputy Registrar are vague. A Committee should be constituted to recommend the modifications in the qualifications and the

Vice-Chancellor be authorised to take a decision, on behalf of the Syndicate. A corrigendum needs to be given regarding this.”

A copy of the proceedings of the meeting has been annexed as Annexure P9 with the petition, which shows that other than the aforesaid issue, another issue with regard to transfer of certain employees was also raised by the same member, i.e. Shri Ashok Goyal. Eventually, the following resolution was passed:-

“Resolved: That the decision of the Syndicate dated 04.11.2012 regarding immediately transfer of office bearers of Associations/Unions and not posting them in the Establishment Branch, in future and not giving them any examination duty, etc. be nullified. This be conveyed to the employee concerned.

3. it was also decided that the next meeting of the Syndicate be fixed for 24th February 2013 at 10:00 a.m.”

Thus, it is contended in the petition, that a perusal of the resolution showed that no approval was given, of the recommendation made by the member as regards the change in qualifications for the post of Deputy Registrar.

Yet, it is further contended, that the Vice-Chancellor constituted a committee headed by the Dean University Instructions, to discuss and modify the existing qualifications for the post of Deputy Registrar, and the committee headed by the Dean held its meeting in the Committee Room of the Vice-Chancellors' office on 06.02.2013, and recommended that a corrigendum be issued, superseding Advertisement no.1/2013.

The following recommendations are stated to have been made by the committee, for the post of Deputy Registrar:-

1(a) Master's Degree with at least 55% marks (50% marks in case of SC/ST candidates) or equivalent grade thereof from a recognised University; and

1(b) Nine years as Assistant Professor in the AGP of Rs.6000/- and above in Educational / Research Institution having experience in Educational Administration.

OR

Five years of administrative experience as Asstt. Registrar or in an equivalent post or above in an Educational/ Research Institution.

2. A candidate with not less than 25 years of service in Panjab University out of which he/she must have worked in the capacity of Superintendent/Personal Assistant or higher position for a period of not less than 4 years, shall be eligible irrespective of qualification prescribed above at 1(a) & (b).”

15. Accordingly, the impugned corrigendum (Annexure P11) was issued, partly superseding Advertisement no.1/2013 and prescribing the qualifications recommended by the committee now formed by the Vice-Chancellor.

The corrigendum further stated that those candidates who had already submitted their applications in response to Advertisement no.1/2013 and Advertisement no.4/2011 and were still eligible according to the revised qualifications, should apply afresh, free of cost, by downloading the forms available on the University website and that the candidates who had earlier applied but had become ineligible in terms of the revised eligibility conditions, could apply for a refund of the full amount of the application fee.

Separate application forms were to be filled for positions at Hoshiarpur, Ludhiana and Chandigarh (there being one post of Deputy

Registrar at the Regional Centre of the University at Hoshiarpur and five at Chandigarh. The reference to Ludhiana was in relation to the post of Assistant Registrar).

16. The petitioner has thus contended in his pleadings, that in terms of the corrigendum, he and many other 'in service employees' were rendered ineligible as per the new criteria.

He has also stated that he has not applied for refund of the fee and instead requested the Association of which he is a member, to take up the matter with the University and to redress the grievance of the employees.

17. It is further contended that though the Syndicate is competent to lay down the terms and conditions of service for non-teaching employees, yet, in order to resolve issues amicably, between the University and the employees' association, "a statutory Joint Consultative Machinery" (JCM), stated to have been duly approved by the Syndicate in its meeting held on 28.07.1990, was formed. The said JCM is stated to have the following four functions:-

- “i) Make recommendations relative to conditions of service and work;
- ii) Make recommendations regarding welfare of the employees and promotion of corporate life in the University;
- iii) Make recommendations for improvement of efficiency and standard of work;
- iv) Make suggestions for change in Regulations and Rules of the University and to consider issues regarding general policy matters in so far as those relate to matters covered under (i) to (iii) above. No individual case will be taken

up for consideration.”

As per the petitioner, “Rules” pertaining to the function of the JCM were also framed and approved by the Syndicate in its same meeting dated 28.07.1990, a copy of which is shown to be Annexure P12.

(However, a perusal of the said document shows that no specific rules have been framed pertaining to the JCM, though the functions and power of the JCM (as reproduced above), its composition, the procedure of its meetings, decisions taken and the term of the JCM, have been provided in the document, which is seen to be signed by the Registrar on 07.08.1990).

18. It is further contended that thereafter all matters relating to non-teaching/ministerial staff of the University, falling under the aforesaid four functions of the JCM, were decided only after recommendations of the JCM were placed before the Syndicate. As per the petitioner, the JCM is, in fact, a statutory body duly approved by the Syndicate.

It is further stated that the non-teaching association of the University had, in fact, been demanding that the post of Assistant Registrar be filled up 100% by promotion and that of Deputy Registrar, to the extent of 75% by promotion based on seniority, as opposed to the existing recruitment rules, by which the posts of Deputy Registrar are to be filled in 75% by direct recruitment and 25% by promotion.

19. The writ petition next refers to a resolution stated to have been passed by the Syndicate in a meeting held on September 19, 1997, in which it was decided that the validity of an advertisement for various posts in the University would be one year instead of one and half years, running from the

last date prescribed for receipt of applications.

It is further contended that there is no provision for extension of the said period of one year but “in routine either the Vice-Chancellor himself in anticipation of the approval of the Syndicate or Syndicate itself extend the validity of the advertisement and in this manner the validity is extended time and again and the very purpose of prescribing the validity period of an advertisement is frustrated”.

Hence, it is further contended, that due to unreasonable delay many persons become ineligible for appointment to a post and the petitioner also, though was eligible for consideration for appointment as Deputy Registrar pursuant to Advertisement no.4/2011 and Advertisement no.1/2013, became ineligible in view of the impugned corrigendum issued on 19.02.2013.

Therefore, even extension of the validity of the advertisement by the Vice-Chancellor, beyond the validity period ending 19.02.2014, (the corrigendum having been issued on 19.02.2013), has been challenged by the petitioner, even though the extension was approved by the Syndicate, first in its meeting dated 12.07.2014 and then on 08.03.2015. The relevant extract of the Syndicate proceedings pertaining to the aforesaid extensions, have also been annexed with the petition.

20. Yet further, it is contended that during the period of extension of the validity of the advertisement, the petitioner has become eligible even as per the revised qualifications but had not been called for any interview.

The ineligibility of the petitioner during the interim period, as

stated, was on account of the fact that though, being a post-graduate, he had 20 years of service in the University at the time when he applied for the post, however, since he had become a Superintendent only in the year 2009, he had gained requisite experience of four years only in 2013.

(Actually he became eligible only w.e.f. 07.07.2014 as per the Advertisement, Annexure P-8, which stipulates a period of 5 years of such experience.

As a matter of fact, the corrigendum having been issued on 19.02.2013, the new eligibility condition actually benefitted the petitioner, the experience required on the post of Superintendent having been brought down to four years from 5 years, thereby making the petitioner eligible for the post on 07.07.2013, though of course the last date for submitting applications being 20.03.2013, his eligibility had not come about even by the corrigendum and in any case not by the original Advertisement).

It is further contended that the University never declared the petitioner to be eligible, nor any communication was conveyed to him that he was ineligible.

21. It is still further contended that since the validity of the advertisement expired on 19.02.2014 and the petitioner had become eligible during that period, even in terms of the corrigendum, he “remained under the impression that the University would re-advertise the posts and he would apply for the same being eligible even under the amended qualifications as per the corrigendum”.

Yet, it is contended that the corrigendum was issued without any

authority of law because before issuing the corrigendum, the revised qualifications were neither placed before the JCM for further recommendation, nor before the Syndicate being the competent authority.

Thus, it is contended that the petitioners' right of consideration for the post of Deputy Registrar has been taken away, whereas had it been re-advertised, the petitioner would have applied and would have competed for the post.

22. Still further, it is submitted that in the intervening time a number of employees acquired the eligibility condition of four years as Superintendents, or on higher posts, and some employees in fact retired. However, it is stated that those who are still in service, like the petitioner, have been illegally deprived of their right of consideration.

23. The writ petition goes on to state that the matter was taken up with the University authorities by the Association, to 'cancel the corrigendum' itself and to issue a fresh Advertisement, with qualifications duly approved by the competent authority, but the University is bent upon going ahead and making selections on the basis of the revised qualifications in the corrigendum.

24. The aforesaid revision of qualifications in the corrigendum apart, the procedure of selection has also been challenged on the ground that the process itself is tainted.

It is contended that pursuant to Advertisement no.4/2011, Advertisement no.1/2013 and the impugned corrigendum, 175 candidates in all applied for the post of Deputy Registrar, out of which 87 candidates have

been called for interview, against six posts of Deputy Registrars.

It is further contended that of these 175 candidates, “24 had applied afresh” after the issuance of the corrigendum and 18 candidates, who had earlier applied in response to the advertisement, “also applied afresh”. It is further contended that 42 candidates had been rendered ineligible out of 175 and out of the 87 candidates called for the interview, 23 have been called only on a provisional basis. Yet further, it is contended that actually 86 candidates out of 175 are not eligible to even apply for the posts. Still further, it is contended that even though all candidates were to apply afresh as per the revised qualifications, by downloading the application forms, yet a number of candidates had not actually applied in pursuance to the corrigendum but were called for the interview, which, according to the petitioner, establishes legal malafides in the selection process.

25. In addition to the above, it is further stated that a meeting of the Syndicate was held on 19.07.2015 and though a majority of the members expressed their concern over the proposed interviews, without getting the qualifications approved by the Syndicate, the Registrar allegedly mis-informed the Syndicate that the Vice-Chancellor was authorised to approve the changes, during the Syndicate meeting held in January 2013. The Vice-Chancellor is also stated to have assured members that he would check the facts and that nothing illegal would be done.

The contention actually is to the effect that in the proceedings held on 27.07.2013, simply because one member of the Syndicate had raised an issue with regard to the qualifications, without any agenda existent on that

issue, and no resolution having been passed in that regard, the Registrar wholly mis-guided the Syndicate by stating that the Vice-Chancellor had been empowered to approve the change in eligibility criteria in the meeting held in January 2013.

A press clipping with regard to a review of the eligibility criteria for the posts of Deputy Registrars, issued by the University on 21.07.2015, has also been referred to in the petition.

26. The petitioner contends that the Association thereafter again requested the Vice-Chancellor to re-advertise the post of Deputy Registrar as per the approved qualifications and to cancel the interviews which took place on 05.08.2015. However, the request of the Association not having been acceded to, the writ petitions were filed.

27. Statutory provisions from the Panjab University Act, 1947 and the University Non-Teaching Employees (Terms and Conditions of Service) Rules 1971, have also been referred to in the petition, to submit that in the absence of proper approval, the rules governing the method of recruitment cannot be changed.

Specifically, the relevant extract of Section 20 of the Act has been reproduced as follows:-

Panjab University Act, 1947

“20. Syndicate:-

- (1) The Executive Government of the University shall be vested in the Syndicate which shall consist of:-
 - (a) The Vice-Chancellor as Chairman
 - (b) The Director of Public Instruction, Punjab; and

- *(ba) The Director of Public Instruction, Chandigarh.
- (c) Not less than twelve or more than fifteen Ex-officio or Ordinary Fellows elected by the Faculties in such manner and for such period as may be prescribed by the regulations.
- (2) xxxxx
- (3) xxxxx
- (4) xxxxx
- (5) The Syndicate may make such rules, not inconsistent with the provisions of this Act and the Regulations, as they may deem necessary for carrying on the executive Government of the University as specified in sub-section (1).”

Similarly, from the Rules of 1971, Rules 2 and 3 have been reproduced as follows:-

“Part II”

xxx

xxx

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- “2. The age educational and other qualifications for appointment to a post and the methods of recruitment shall be as prescribed by the Syndicate, from time to time provided that no one shall be appointed to any post unless he has attained the age of 18 years.

Methods of Recruitment

3. Recruitment to the posts may be made:-
- (i) by direct recruitment
- (ii) by promotion; and
- (iii) by appointment of employees borrowed from Government Departments and other institutions

4. Procedure of Appointment and Qualifications for Recruitment Class A posts

(i) xxxx

(ii) Deputy Registrars:

(a) 75% of the posts of Deputy Registrars in the University Office shall be filled in on the basis of selection after advertising the posts. The minimum qualifications for these posts to be filled by selection shall be Master's or LL.B. or equivalent degree.

(b) The other 25% of the posts of Deputy Registrars shall be filled in by promotion on the basis of seniority-cum-merit from amongst Asstt. Registrars (in service) with a minimum of 3 years's service (as Asstt. Registrars).

Essentials:

Master's or LL.B. Degree of a recognized University or an equivalent degree.

Desirable:

At least 10 years experience of administration out of which at least five years' experience as Assistant Registrar or above or its equivalent post preferably in a University or educational institution with experience of organizing examinations on a large scale.

OR

At least 15 years' experience as Professor/ Reader/ Lecturer/ Principal taken together, of which at least 5 years' should be as Professor/Reader/Lecturer in Reader's scale/Principal, with experience in educational administration, with reference to conduct of examinations.

OR

Comparable qualifications and experience in research establishments and other institutions of higher learning.”

28. Thus, essentially challenging the corrigendum on the ground

that revised qualifications were neither placed before the Joint Consultative Machinery nor before the Syndicate for proper approval, not only the corrigendum is bad but even extension of the validity of Advertisement no.1/2013 for a successive period of six months each is wholly illegal and arbitrary, the writ petition has been filed.

29. The earlier writ petition filed by the Association, alongwith its Secretary, as the two petitioners, has also essentially raised the same challenge, on the same grounds, contending that the Association, being a representative body of its members, i.e. the non-teaching employees of the University, with its President and Secretary also members of the Joint Consultative Machinery, and the President further being a Fellow of the University (member of the Senate), it was competent to file the writ petition to safeguard the interest of its members.

30. The petitioners have also cited, in their writ petitions, various judgments on the number of candidates that should be called for an interview in a selection process, including **Ashok Kumar Yadav and another v. State of Haryana and another** 1985 (3) SLR 200.

The judgment in **Y.V.Rangaiah and others v. J. Sreenivasa Rao and others** 1983 (1) SLR 789 has also been cited, to submit that vacancies that accrued prior to amendment of the Rules, would be governed by the old rules and not by the amended rules.

31. It is necessary to state here that after the petition by the Association (CWP No.15771 of 2015) was filed on 31.07.2015 and notice was issued on 03.08.2015, vide its order dated 28.08.2015, this Court had,

upon hearing preliminary submissions from both sides, called for the record of the applications received by the University and had directed that the selection be not finalized.

The Registrar had also been summoned to answer as to how, in his written statement, he had stated that those who had applied in response to Advertisement no.1/2013 are not required to apply afresh, as the impugned corrigendum issued on 19.02.2013 very clearly stated that all candidates shall be required to apply afresh.

It is also contended by the petitioner that though the interviews were scheduled to be held between 05.08.2015 to 08.08.2015, the process had not been finalized in view of the aforesaid interim order.

32. In the first written statement filed by the University, in response to CWP No.15771 of 2015 filed by the Association, a preliminary objection has been taken that the corrigendum having been issued on 19.02.2013 and the writ petition having been filed on 31.07.2015, after almost two and half years, the sole purpose was to ensure that the validity of Advertisement no.1/2013, read with the corrigendum dated 19.02.2013, expires on 18.08.2015, without the posts being filled. Hence, the petition has been challenged on the ground of delay, as also on the ground that it is filed with an oblique motive. Still further, it is stated that the Association has no locus standi to file the petition, neither it, nor its Secretary, being candidates for the posts of Deputy Registrars and further, not even a single name having been pointed out, as to which “in service employee” had become ineligible to apply for the post of Deputy Registrar, due to the corrigendum.

It has further been stated that the demand of the Association to not hold a written test for making the selection, was acceded to by the University, and in fact, the Association vide its letter dated 02.07.2015, had appreciated that action of the institution.

33. As regards calling 87 candidates for interview, for six posts, it has been stated that pruning of candidates could only have been done on the basis of a written test, and with no written test held, all eligible candidates as had applied, were necessary to be called.

It has further been stated that the factum of the written test having been done away with has also been brought to the notice of the Chancellor, i.e. His Excellency, the Vice-President of India, through his Officer on Special Duty.

Instances of earlier similar number of candidates having been called for similar number of posts of Assistant Professors have also been cited, further stating that the University is, therefore, experienced enough in conducting interviews and selecting candidates.

34. On the issue of the corrigendum having been issued without the approval of the Syndicate, it is stated that the qualifications for the posts of Deputy Registers were approved by the Syndicate on 16.10.2004, which were subsequently reviewed and amended by the Syndicate in its meeting dated 06.09.2009. Pursuant to the decision of the Syndicate on 03.04.2011, the qualifications were further amended following recommendations by the Committee and the approval of the Vice-Chancellor, as per the authority given to him by the Syndicate, and accordingly, on the basis of amended

qualifications, six posts of Deputy Registrars were advertised vide Advertisement no.4/2011 and re-advertised vide Advertisement no.1/2013, without any change in the qualifications.

Those who had applied against the Advertisement of 2011 were asked to not apply again in 2013, though otherwise the last date of receipt of applications was 20.02.2013 for new applicants.

It is further stated that pursuant to a “general discussion” in the Syndicate meeting held on 27.01.2013, where one of the members suggested that a committee be formed to review the qualifications and the Vice-Chancellor be authorised to take a decision on behalf of the Syndicate, the Vice-Chancellor had accordingly constituted a committee under the chairmanship of the Dean, University Instruction, who is a nominated member of the Senate, and along with him other members were also included in the committee, three of whom were also again members of the Syndicate. Thus, according to the recommendation of the committee, the Vice-Chancellor approved the amended qualifications and a corrigendum was accordingly issued on 19.02.2013, with no objection raised by the Syndicate on the decision of the Vice-Chancellor. Candidates were given time to apply uptill 20.03.2013. It is also stated in the reply that “Moreover, it was clearly stated in the Corrigendum that candidates who had applied in response to advertisement No.4/2011 and 1/2013 need not apply again.”

35. On the issue that old vacancies should be filled in accordance with un-amended rules, in terms of *Y.V.Rangaiah's case* (supra), it has been stated that no right had accrued to any candidate, to the posts in question

(without any selection having been made), and with everyone given a fair chance to compete, the judgments that apply to filling up of posts by promotion, cannot apply to posts being filled by direct recruitment.

36. On the reason for not filling up the posts advertised vide Advertisement no.4/2011, the reply of the University states that the applications were received by the last date, i.e. 25.05.2011, but the validity of the Advertisement ran out in May 2012 and with the former Vice-Chancellor having completed his term on July 22, 2012, the process of selection could not be completed and therefore, another advertisement with the same qualifications was issued in January 2013, the validity of which was extended from time to time, with the validity of the present advertisement (after the corrigendum issued), being valid uptill August 18, 2015.

37. Yet further, it has been stated that in response to two advertisements, 175 candidates had applied for six posts of Deputy Registrars, out of whom 87 candidates were found eligible by the screening committee headed by the Dean, University Instruction.

It has been denied that 23 candidates called on provisional basis for interview, were called for any malafide reasons, but in fact, these candidates had not attached their complete documents with their applications and were therefore, directed to bring those documents.

Strangely, it has been stated in the reply of the University (through its Registrar), that in the impugned corrigendum issued on 19.02.2013, "it was specifically mentioned that those candidates who had already applied need not apply afresh".

On the above basis, it has been further stated in the reply, that the allegation of the petitioners that there are a number of candidates who had not applied afresh, but have been called for an interview, is a contention made by the petitioner without any basis.

As already noticed, the Registrar of the University had been summoned by this Court in view of the above statement made in his written statement, and in response to the summons, he also filed an affidavit giving his explanation for having actually made an incorrect statement. More will be said on that further ahead.

38. The reply goes on to again reiterate that the issuance of the corrigendum was valid, though it has been admitted that the Vice-Chancellor had assured the Syndicate that “nothing illegal would be done”.

The news items referred to by the petitioners are stated to have not been issued by the University and have been termed as misleading.

It has been further stated that the very fact that the University had supplied a video compact disc of the proceedings of the Syndicate meeting held on 19.07.2015, showed the bonafides of the Vice-Chancellor and as such, eventually the issuance of the corrigendum and the selection process has been justified, seeking dismissal of the writ petition. (In the said meeting, the Vice Chancellor had assured members that the would ascertain the factual position with regard to the correctness of the corrigendum issued and would ensure that nothing illegal was done.)

39. In reply to the writ petition filed by Dharam Paul Sharma (CWP No.19003 of 2015), other than taking the same preliminary objections as

were taken in reply to the other writ petition, additionally, it has been stated that the petitioner, working as an Assistant Registrar in the Establishment Branch of the University, was well aware of each and every stage of the selection process and despite the fact that the impugned corrigendum was issued on 19.02.2013, the writ petition has been filed by him on 07.09.2015, i.e. after about two years and seven months. Hence, the same objection has been taken as in the other case, of a delayed filing.

40. It has further been stated that on the last date for receipt of applications in response to Advertisement no.4/2011, the petitioner was not eligible to be considered for appointment, as he did not possess five years experience as a Superintendent (he having been promoted to the post on 07.07.2009).

In the reply to the petition on merits, it has further been stated in paragraph 11 thereof, that even though upon re-advertisement in 2013, the candidates who had already applied were not required to re-apply, however, they were required to send any additional information regarding their education qualifications and experience, in order to update their applications/bio-data. The petitioner, however, did not send any such documents for up-dation of his bio-data other than the experience certificate already submitted by him, dated 18.05.2011, (a copy of which has been annexed as R-4 with the written statement).

Though it has not been specifically stated in the reply, the implication, upon a perusal of the certificate, is that the petitioner continued to remain short of experience even after the issuance of advertisement

no.1/2013.

41. On the issue of the Joint Consultative Machinery not having been consulted, it has been stated that the Vice-Chancellor had been authorised by the Syndicate in terms of the statement made by one of its members, to revise the qualifications and accordingly, upon the recommendation of the committee constituted by him, the Vice-Chancellor approved the revised qualifications and the impugned corrigendum was thereafter issued on 19.02.2013.

It has also been stated that only grievances/specific demands of the non-teaching/ministerial/secretarial staff of the University were to be put up for consideration before the JCM, which is not a forum for getting qualifications approved for the purpose of recruitment.

42. On the issue of the quota of recruitment to the post of Deputy Registrar being revised to favour promotees to the extent 75% of the vacancies and restricting the vacancies for direct recruitment to 25%, it has been stated that the Syndicate of the University had taken into consideration the maintenance of efficiency of administration in making appointments to the service and thereafter fix the quota as aforesaid.

43. On the extension of the validity of the advertisement, the petitioners' non-eligibility for consideration for appointment as a Deputy Registrar in response to advertisement no.4/2011, has been again reiterated to submit that he has no locus to challenge the same.

It has further been stated that extension of time to validate the advertisement was taken from the Syndicate, which is competent to do the same.

44. It has also been reiterated that the petitioner has chosen to file the writ petition only after the interview process was over (though final selection had been stayed by this Court), and not before the interviews, knowing fully well that he had not been called for the interview, he being fully aware of the stage of the selection process, as he is working as an Assistant Registrar in the Establishment Branch and further, being a member of the Association which has filed the connected writ petition.

In this regard, it has further been stated that though the Association submitted a representation (Annexure P18) on 16.07.2015, against fixation of the date of interviews on 05.08.2015, the said representation was also filed about two years and five months after the corrigendum was issued.

It needs to be noticed here in this regard that the said representation is to the effect that the interviews be deferred/cancelled on the ground that Assistant Registrars should be promoted, with some of them even having been designated as officiating Deputy Registrars. As such, the representation states that making way for direct recruits would result in reversion of such officiating Deputy Registrars, after many years of service.

Of course, the issue of the corrigendum and changed qualifications, without the approval of the Syndicate, has also been highlighted in the said representation.

45. The aforesaid, in essence, thus sums up the stand of the University, as taken in their written statements filed in reply to the two writ petitions.

Replications have also been filed by the petitioners, to the written statements filed in both the writ petitions.

46. The replication in the petition of the Association (CWP No.15771 of 2015), essentially states that whatever be the reasoning given by the respondent University, for issuing the impugned corrigendum with amended qualifications, factually, approval of the competent authority, i.e. the Syndicate, was not taken before implementing the amended qualifications.

The issue of calling 87 candidates against advertised 6 posts, with 23 of those candidates being those whose forms were found to be incomplete (as stated even by the University itself) has also been reiterated, as has the fact that only 19 of the said candidates actually applied after the corrigendum was issued (even though the corrigendum itself called for fresh applications).

47. In response to the contention of the University that the writ petitions have been filed belatedly, i.e. almost two and half years after the corrigendum was issued, it has been stated that the actual process for filling up the vacancies advertised having been initiated by the University itself well after the corrigendum was issued, with only extensions having taken place earlier, the respondent itself is estopped from raising a plea of delay and laches.

48. On the locus standi of the Association to file the petition, it has been stated that the Association being a representative of more than 800 employees and “a statutory body (Joint Consultative Machinery) also not having been consulted before the change of qualifications”, the Association was within its right to file the petition, as public appointments “are national wealth and all those persons who are eligible have a right to compete for the posts”.

It is further stated in the replications that many “in service employees” have been rendered ineligible for appointment to the posts in question. On the other hand, (because of the changed qualifications prescribed in the impugned corrigendum), many, including the petitioner in CWP No.19003 of 2015, i.e. Dharam Paul, have also become eligible, but no intimation has ever been sent to them in that regard.

49. The rest of the contents of the replication are essentially a reiteration of the aforesaid facts, and what has been stated in the writ petition, with, however, stress laid upon Regulations 5,8, 10 and 12 of the University Calendar, wherein, Regulation 8 provides that it is the Syndicate which can make recommendations to the Senate, with regard to appointment of officers of Class-A, and that the Syndicate may also delegate any of its executive functions to the Vice-Chancellor or to a sub-committee and make rules and regulations not inconsistent with the Act, for the purpose of carrying on the Executive Government of the University. The said regulations, as are stated to be contained in the University Calendar 2005, Volume-I, have been reproduced by the petitioners as follows:-

“5. Five members shall form the quorum for a meeting of Syndicate. The decision of the majority of the members present shall prevail. When the votes are equal, the Vice-chancellor or the member presiding shall have a second or casting vote.

8. As provided in Section 20(1) of the Panjab University Act, the executive government of the University shall be vested in the Syndicate. Without prejudice to the generality of its powers as the executive government of the University the Syndicate shall, in particular, consider and make such recommendations to Senate as they deem fit in the following matters:-

- (a) affiliation and disaffiliation of colleges;
- (b) appointment of Officers at Class A;
- (c) to (e) xxx xxx xxx

10. As provided in Section 20 (4) of the Panjab University Act, the Syndicate may delegate any of its executive functions to the Vice Chancellor or to a Sub-Committee appointed from amongst the members of the Syndicate or to a committee which may include persons who are not members of the Syndicate or to any other authority prescribed by Regulation.

12. As provided in Section 20 (5) of the Punjab University Act, the Syndicate may make such Rules, not inconsistent with the provisions of the Act and the Regulations, as they may deem necessary, for carrying on the executive government of the University.”

50. Thus, it is contended that though the Syndicate may delegate any of its executive functions to the Vice-Chancellor, but the Vice-Chancellor on his own cannot assume authority to do so merely on the suggestion of a member of the Syndicate, made in a meeting of that body.

Hence, the contention is that the revised qualifications not

having the approval of the Syndicate, and the Vice-Chancellor not having been authorised to again constitute a committee or to give any approval to any committees' recommendations, the amended eligibility conditions/qualifications prescribed in the corrigendum have no force of law and cannot be acted upon.

51. The replication filed in response to the written statement of the respondent University, in CWP No.19003 of 2015, is essentially to the same effect and as such, requires no extensive reference to. However, what needs to be referred to is the fact that the contention of the University to the effect that the petitioner is not eligible for consideration of his case for promotion to the post of Deputy Registrar, has been denied by the petitioner, stating that he was fully eligible to be considered for the post pursuant to Advertisement no.1/2013 but has become ineligible after the corrigendum was issued and that the University is obviously fully aware of that, he being an 'internal candidate' (employee). It has also been stated that the petitioner being an 'internal candidate', his bio-data needed no updation, his eligibility being fully available with and known to the University.

52. Other than the aforesaid pleadings on both sides, the affidavit filed by the Registrar of the University, in response to the order of this Court dated 28.08.2015, also needs to be referred to.

Vide the aforesaid order, this Court had observed and directed as follows:-

“Record of the applications received by the University, in response to the corrigendum to Advertisement No.1 of 2013 (Annexure P-11), be produced on 1.9.2015. Till then the

selection to the posts of Deputy Registrar shall not be finalized.

The Registrar of the respondent-University shall also remain present in Court, to answer, as to how he has, in paragraph 7 of his written statement, stated that those who had applied in response to Advertisement No.1 of 2013, are not required to apply afresh, because in the corrigendum issued on 19.02.2013 (Annexure P-11), it is very clearly stated that all candidates shall be required to apply afresh.

A copy of this order be given to learned counsel for the respondent-university, under the signatures of the Bench Secretary of this Court.”

53. The Registrar, in his affidavit, has high lighted and reproduced the relevant part of the impugned corrigendum dated 19.02.2013 as follows:-

“Those who have already submitted their application in response to Advt.No.1/2013 (for the posts of Deputy Registrars & Assistant Registrars) and Advt. No.4/2011 (for the posts of Deputy Registrars) and are eligible according to revised qualifications, should apply afresh free of cost by downloading the forms available on PU website. They need not pay the requisite fee again.”

Further, in the corrigendum it is also stated that “The candidates who had applied earlier but are ineligible as per the revised eligibility conditions, can apply for refund of full amount of application fee (including cost of form, if any).”

It has further been stated in the affidavit that the aforesaid two parts of the corrigendum categorises the applicants into two categories, i.e.

(i) those who had earlier applied in response to Advertisement no.4/2011 and Advertisement no.1/2013 but were found to be ineligible in terms of those advertisements, and have now become eligible as per the revised

qualifications, and (ii) those who had applied in response to the earlier advertisement and were eligible in terms of the conditions specified therein but had become ineligible as per the revised conditions contained in the corrigendum.

It has further been stated that those of the first category, i.e. those who were ineligible earlier but had become now eligible, were required to apply afresh, whereas those who had become now ineligible could apply for a refund of the application fee.

Yet further, it is stated in paragraphs 4 and 5 of the affidavit as follows:-

“4. That inferentially, however, there is one more third category of applicant-candidates covered by the corrigendum; namely, the candidates who have not applied earlier at all may now apply in view of the revised qualification and the extended date of filing the application. Besides the above, there is still one more category of the candidates who had applied in response to Advt. No.4/2011 and Advt. No.1/2013 and were found eligible in terms of the conditions stipulated in those advertisements and also continue to remain eligible as per revised qualification of the corrigendum, such candidates could not have been made ineligible as per the spirit of the corrigendum merely because they had not applied afresh after the issuance of corrigendum on 19.2.2013. Corrigendum, for all intents and purposes, does not supplant the substance of the main advertisement excepting to the extent it modifies or corrects the same.

5. That as a logical corollary or as an offshoot of the first category, namely, those candidates who had applied earlier and who were found to be ineligible in the first instance, but became

eligible by reason of the revised conditions as reflected in the corrigendum, and were asked to apply afresh free of anymore charges, it was construed that the ones who were eligible in the first instance and continues to be eligible even in terms of the revised conditions, need not apply afresh. Such a construction is in accordance with the principle of natural justice, which requires that accrual of an advantage should not be denied to a person whom the same has become and continues to be his due as a matter of course.”

The aforesaid is thus, the interpretation given by the Registrar, to the one simple sentence contained in the corrigendum, to the effect that “Those who have already submitted their application in response to Advt. No.1/2013 (for the posts of Deputy Registrars & Assistant Registrars) and Advt. No.4/2011 (for the post of Deputy Registrars) and are eligible according to revised qualification, should apply afresh free of cost by downloading the forms available on PU Website”.

It has been further stated that “it was this understanding which prompted the respondent University to invite not only those candidates who had applied afresh in terms of the stipulation of the Corrigendum, but also the ones who had applied earlier and continue to be eligible thereafter”.

It is further contended that the intention of the University in issuing the corrigendum was that the maximum number of eligible persons should come into the selection process so that suitable persons are selected for the post of Deputy Registrar.

54. The affidavit further states that despite the apparent inconsistency/discrepancy in the statement contained in the corrigendum and

in the written statement of the Registrar, the interest of 'in service' employees of the University has not suffered at all. This is sought to be shown on the ground that the total number of candidates who had applied in response to the advertisements of 2011 and 2013 was 175 and the number of the new candidates who applied, was 23. The number of candidates who had earlier applied and had applied afresh also, after the corrigendum, was 18, whereas those who did not chose to submit their applications again, in response to the corrigendum, was 133.

Thus, it is stated that 133 candidates did not chose to apply simply because they had already applied and considered themselves eligible even in terms of the corrigendum and therefore, “the intent and purpose of the corrigendum” was comprehended by such candidates.

55. After giving the aforesaid somewhat paradoxical explanation, it has been stated by the Registrar, that “For reproducing such a connotative and 'inferential' construction as “clearly stated” fact in the corrigendum dated 19.02.2013 is highly regretted by the deponent”.

56. Thereafter, towards the fag end of the hearing of this petition, the respondent University filed Civil Miscellaneous Application no.2913 of 2016, to place on record a resolution passed by the Syndicate on 27.02.2016, by which the qualifications stipulated in the impugned corrigendum were approved after a detailed discussion on the issue.

Notice was issued in the application to learned counsel for the non-applicant-petitioners on the last date of hearing, (on the date that judgment was reserved, on 27.04.2016), and Mr. Dinesh Kumar, learned

counsel for the non-applicants-petitioners accepted notice in Court. However, there being no serious opposition for taking on record a copy of the resolution, in view of the fact that factually the resolution had already been passed, approving the qualifications given in the corrigendum, the application was allowed and the resolution (copy thereof) was taken on record as Annexure R7 with the written statement of the respondents, in CWP No.19003 of 2015.

57. The written pleadings of the parties having been reproduced in detail, it needs to be noticed that learned counsel for the petitioners and Mr.Dharamvir Sharma, learned Senior Counsel appearing for the respondent University, essentially reiterated what is contained in the aforesaid pleadings, with learned counsel for the University laying stress on the fact that the petitioner in CWP no.19003 of 2015, i.e. Dharam Paul Sharma, did not update his bio-data as required by the corrigendum and as such, he cannot be considered to be eligible for the post.

In this regard, learned Senior Counsel relied upon a judgment of the Supreme Court in **Union of India and others v. N.Y.Apte and others** 1998 (5) SLR 88, to submit that when a candidate is not even eligible for a post on the date of the filing of the writ petition, the petition itself cannot be entertained at his instance (reference paragraph 6 of the judgment). He further relied upon a judgment of a co-ordinate Bench of the Allahabad High Court in **Sinchai Sangh Nichli Ganga Nahar, Kanpur and others v. State of U.P. and others** (Law Finder) Doc Id # 585882, to submit that a Union or Association would have no locus standi to question a selection process,

which can only be challenged by a candidate in the selection process.

58. Mr. Sharma further submitted that once the Syndicate had now approved the amended qualifications issued in the corrigendum, such ratification would relate back to the original issuance of the corrigendum itself and the corrigendum, in any case, being a correction of the original Advertisement no.1/2013, would itself stand amended.

On this issue, learned Senior Counsel relied upon a judgment of the Supreme Court in **Maharashtra State Mining Corporation v. Sunil (2006) 5 SCC 96**, wherein it was held by their Lordships that an order of dismissal passed by the Managing Director, subsequently approved by the competent authority, i.e. the Board, was not required to be interfered with.

59. He further submitted that as regards the non-filling up of the posts advertised, eventually it is for the recruiting institution to decide whether or not to fill up any posts at any particular time.

On this, Mr. Sharma cited a judgment of the Supreme Court in **State of Jharkhand and others v. Ashok Kumar Dangi and others (2011) 13 SCC 383**.

In that case, filling up of posts of only a specific category, in terms of amended rules, despite the advertisement earlier having been issued in respect of more and different category posts as per the un-amended rules, was upheld by their Lordships, holding that filling up of any posts is a matter of policy which is for the State to decide and as such, non-filling up of some advertised posts, especially as the old rules were of the composite State of Bihar, would not require any interference with by the Court.

In fact, their Lordships further cited from an earlier judgment in **Rajasthan Public Service Commission v. Chanan Ram** (AIR 1998 SC 2251), wherein it was held that even those who had already appeared for a written examination, had only a legitimate expectation to be considered according to the rules then in vogue, and that the Government was entitled to conduct selection in accordance with the changed rules.

60. Lastly, learned Senior Counsel for the respondent submitted that though 23 provisionally eligible candidates had been called for interviews to submit their documents, however, only nine such candidates actually reported for the interview and seven were allowed to appear in it, with two candidates not allowed to appear, as they did not fulfill the requisite qualifications/eligibility.

61. In rebuttal, Mr. Dinesh Kumar, learned counsel for the petitioners reiterated that as regards the locus standi of the Association (in CWP No.15771 of 2015), once the Association was acting even as a part of the Joint Consultative Machinery constituted by the Syndicate vide its resolution no.20 dated 28.07.1990 (Annexure P17 filed with subsequent application), and the Vice-Chancellor had also sought a feedback from the Chairman of the JCM, the Association had 'complete locus' to file the petition.

In this regard, he relied upon the judgment in **D.S.Nakara and others v. Union of India** (AIR 1982 SC 130).

In that case, the Supreme court held that even the 3rd petitioner in that petition, which was a registered society and a non-profit organisation consisting of public spirited persons, would have sufficient interest in the

subject matter (pension of retired employees in that case), to enable it to file a petition seeking relief on behalf of all pensioners.

(However, no further deliberation was made in that judgment on the issue, in view of the fact that the locus standi of the 1st and 2nd petitioner was not in question, even while holding that the locus standi of the 3rd petitioner was unquestionable).

Learned counsel also cited a judgment in **National Textile Workers' Union etc. v. P.R.Ramakrishnan and others** (AIR 1983 SC 75), wherein the workers of the company were held entitled to appear at the hearing of their company.

Mr.Dinesh Kumar further submitted that in any case, the petitioner in CWP No.19003 of 2015, being a candidate for the post of Deputy Registrar, having duly applied for the post, he naturally has locus standi to challenge the issuance of the corrigendum, changing the qualifications/eligibility conditions.

62. Learned counsel further cited a judgment of the Supreme Court in **B.R. Rambhadriah v. Secretary Food & Agricultural Department** 1950-1988 RSJ (3) 600, to submit that it should be the endeavour of the Court to remedy any injustice brought to its notice, rather than to deny relief to an aggrieved party on technical and procedural grounds.

He also cited a judgment of a Division Bench of this Court in **M/s Fondant Propbuild Pvt. Ltd. v. State of Haryana** (2016 (1) RCR (Civil) 204), wherein it was held that when a fraud is played by the respondent, even the question of locus standi of the petitioner needs to be

overlooked, as fraud vitiates all else.

63. As regards the subsequent ratification of an action taken by an incompetent authority, Mr. Dinesh Kumar cited a judgment of another Division Bench of this Court, in **Darshan Lal v. State of Haryana and others** 1999(1) RSJ 607, to submit that such ratification is not possible because it was not merely an irregularity or a technical violation of the Rules (as in that case) but a basic defect in the recruitment process.

64. On not calling candidates more than twice or thrice the number of vacancies available, learned counsel for the petitioners cited a judgment of the Supreme Court in **Ashok Kumar Yadav v. State of Haryana and others** 1995 (3) SLR 200. He also cited a division Bench judgment of this Court in **Ramesh Chander v. Preeti and others** 2012 (6) SLR 206.

65. After hearing learned counsel for the parties at length and considering the pleadings, the first issue that needs to be considered is as to whether even the Advertisement no.1/2013 which prescribed the same qualifications for the post of the Deputy Registrar, as were prescribed in Advertisement no.4/2011, actually stipulated valid qualifications or not, considering that the Rules of 1971 prescribed different qualifications.

In fact, these petitions had been put up for re-hearing only for this purpose in view of the fact that neither side had addressed arguments on this issue, which was considered otherwise necessary to be determined by this Court.

66. As noticed in the order dated 04.11.2016, learned counsel on both sides were *ad idem* that an amendment of the service Rules of

employees of the University can simply be done upon the Syndicate resolving to do so, in terms of Section 20 of the Punjab University Act 1947.

A perusal of the said provision, already reproduced earlier, shows that the “Executive Government” of the University is vested in the Syndicate, which may delegate any of its executive function to the Vice Chancellor or to a Sub-Committee appointed from amongst members of the Syndicate, or to a Committee appointed by the Syndicate which may also include non-members of the Syndicate.

The petitioners have also reproduced sub Section (5) of Section 20 in the writ petition, which has also been reproduced earlier in this judgment. The said provision was inserted into the Act by notification no.S01887 dated 25.05.1970, issued by the Government of India, i.e. the competent Government.

Obviously, a conscious decision was taken that routine matters, even matters pertaining to laying down qualifications etc. for at least non-teaching posts, need not to be considered by the Senate or the Central Government but by the Syndicate itself, i.e. the Executive Government of the University.

Though the aims and objectives of the notification have not been found, however, with learned counsel on both sides being *ad idem* that rules pertaining to laying down of qualifications for non-teaching staff may be promulgated by the Syndicate itself, I see no further purpose in going further into that issue, and therefore it is accepted that the Syndicate is the competent authority for promulgating such rules and amending them.

Without a doubt the amended qualification / eligibility conditions stipulated in Advertisement no.4/2011 and 1/2013, should have been inserted into the Rules of 1971 by way of formal amendment of Rule 4 (iii) thereof, after the amended qualifications were approved by the Vice Chancellor on 13.04.2011, such authority having been given to him by the Syndicate in its meeting held on 06.09.2009; however, the non publication of the amendment, would not, in the opinion of this Court, invalidate the amendment, once it was even published in the aforesaid advertisements, in the form of necessary qualifications for the post of Deputy Registrar.

67. However, to avoid any further any confusion on this issue, the competent authority in the University is directed to ensure that the aforesaid amendment in the qualifications and any future amendments in the qualifications / eligibility conditions, for any post in the University, are duly published by way of a proper amendment shown in the concerned regulation / rule, within a period of one month from the date of approval of the amendment concerned, by the competent authority.

68. That issue having been resolved, the issue to be considered obviously is as to whether or not the qualifications / eligibility conditions prescribed in the impugned corrigendum were also validly issued or not.

In that respect, I am wholly in agreement with learned counsel for the petitioners, that the competent authority under Section 20(5) of the Act 1947, i.e. the Syndicate, not having been given any authority to the Vice Chancellor to further amend the rules or change the qualifications after the resolution passed on 06.09.2009, the Vice Chancellor could not have *suo*

motu assumed such authority to change the qualifications, or propose to change the qualifications as and when he deemed it proper, without even a reference to the competent authority, i.e. the Syndicate.

The arguments of learned senior counsel appearing for the University to the effect that authority once having been conferred upon the Vice Chancellor by the Syndicate on 06.09.2009, he could have exercised his discretion thereafter also, is an argument wholly without basis, because the specific authority given to the Vice Chancellor vide the aforesaid resolution, was only in respect of the recommendations to be made by a Committee constituted by the Syndicate, consisting of Sh. G. K. Chatrath, Sh. A. S. Bedi and Dyal Partap Singh Randhawa.

Thus, the limited authority conferred upon the Vice Chancellor was as to whether the recommendations made by the said specific Committee, were acceptable to him or not and he having approved those recommendations made by the said Committee, his authority ended there itself.

Even if the same Committee had made different recommendations subsequently, approval / disapproval of those recommendations could not have been on any authority vested in the Vice Chancellor, in view of the fact that such authority was granted as a one time measure by the Syndicate.

The qualifications published in the corrigendum at the time of such publication, never having been recommended by any Committee approved by the Syndicate, nor the Vice Chancellor having been conferred

any power to constitute a Committee on his own to have a “re-look” at the qualifications earlier prescribed, the action of the Vice Chancellor at that time at least has to be held to be without any legal and valid basis and consequently, the publication of those qualifications as the basic qualifications required for the post of a Deputy Registrar, as published in the impugned corrigendum cannot be accepted to be valid qualification prescribed by a competent authority, at the time of such publication.

69. Having held so, the next question that arises, is that as of today, would the said qualifications prescribed in the impugned corrigendum, be deemed to be validly approved, in view of the fact that subsequently the Syndicate has resolved to approve those qualifications, vide its resolution dated February 27, 2016, a copy of which has been annexed as Annexure R7 by the University.

Of course, as already held hereinabove, at the time of publication of the corrigendum, the qualifications prescribed were not valid qualifications and as such, the corrigendum itself would need to be quashed on that ground. Though, with the qualifications now having been approved by the competent authority (Syndicate), that may seem to be a pointless exercise (to quash the corrigendum), in view of the fact that the same qualifications are valid qualifications with effect from 27.02.2016; however, quashing of the corrigendum would be necessary in the opinion of this Court, in view of the fact that the selection process itself has been held to be vitiated, on the issue of considering the application and calling candidates for interview, as had not applied afresh and further, for the reason that before

27.02.2016, the qualifications prescribed in the corrigendum, were not valid qualifications.

70. Thus, the next question to be looked at is the challenge raised by the petitioner to the selection process itself, in as much as, firstly, it is contended that the number of candidates (87) called for the interview, for selection to six posts, is highly excessive, and contrary to the law laid down by the Supreme Court in that regard.

The next contention in that regard is that even though the impugned corrigendum itself, stipulated that those who had applied in response to Advertisement no.1/2013 and Advertisement no.4/2011, and are eligible according to the revised qualifications, should apply fresh free of cost, the University, however, actually called such persons for interview as had never applied afresh.

71. In this regard, as already briefly stated earlier, the affidavit of the Registrar in response to the order of this Court dated 28.08.2015, is wholly and completely unacceptable, as it is a deliberate attempt either to simply cover up his own mistake, or actually may be on account of *mala fides* in the selection process.

To repeat, the following is the part of the corrigendum which deals with the issue of fresh applications in terms of the revised qualifications:-

“Those who have already submitted their application in response to Advt. No.1/2013 (for the posts of Deputy Registrars & Assistant Registrars) and Advt.No.4/2011 (for the post of Deputy Registrars) and are eligible

according to revised qualification, should apply afresh free of cost by downloading the forms available on PU Website. They need not pay the requisite fee again. The candidates who had applied earlier but are ineligible as per the revised eligibility conditions can apply for refund of full amount of application fee (including cost of form, if any). Separate application forms be filled for positions at Hoshiarpur, Ludhiana and Chandigarh.”

Why a simple line stating that those who have already submitted their applications in response to Advertisement no.1/2013 and Advertisement no.4/2011 and are eligible according to revised qualifications should apply afresh, should be interpreted by virtually writing a thesis on these lines, is inexplicable, except that it is to cover up for a *mala fide* selection process.

A simple interpretation of the aforesaid lines, in simple English, makes it amply clear that those who had submitted their applications in response to the earlier two advertisements of 2011 and 2013, were still required to apply afresh, if they were still eligible for applying for the posts in terms of the amended qualifications stipulated in the corrigendum.

The only concession given to them was that they were not to submit the application fee again. As regards those who had applied earlier but became ineligible as per the revised eligibility conditions, they were given the opportunity to apply for a refund of the full amount of the application fee submitted by them at the time when they applied in response to the Advertisements of 2011 and 2013.

The long winded and uncalled for interpretation attempted to be given by the Registrar in his affidavit dated 01.09.2015, was therefore

wholly uncalled for, for which he deserves to be reprimanded.

72. After giving the aforesaid explanation it has been stated in the affidavit (as also in the written statement filed by the University), that some persons who had applied earlier but had not applied pursuant to the corrigendum, were called for the interview, (some of them on a provisional basis), ostensibly on the ground that the corrigendum did not require earlier applicants to submit fresh applications and because some of them had not submitted all required documents. This Court already having held that fresh applications were required to be made even as per the corrigendum, by all those who were still eligible in terms of the new qualifications, the action of the University in considering and calling candidates who had not applied afresh, becomes highly suspect and puts a question mark on the selection process.

Even presuming for the sake of argument that the intentions of the University were wholly *bona fide*, the fact still remains that the process would seem to be tainted, with no transparency as regards those who were eligible to be called for the interview and those who were not eligible even as per the impugned corrigendum.

73. Consequently, having earlier held that the revised qualifications were not valid at the time when candidates were called for interviews conducted in August 2015, and secondly, the process of calling candidates who had not applied pursuant to the corrigendum also having been found to be not valid by this Court hereinabove, w.e.f. 27.02.2016, i.e. when a resolution approving them was passed by the Syndicate, but the new

qualifications having been held to be valid, it is directed that if the University still wishes to fill up the posts advertised vide Advertisement no.1/2013, it would issue a fresh advertisement, inviting fresh applications (free of cost from those who had applied earlier) and thereafter, issue interview calls to eligible candidates and make a selection out of such eligible candidates, for appointment to the posts of Deputy Registrar. The impugned corrigendum is, therefore, hereby quashed.

74. Coming next to the question of the number of candidates to be called for interview, for filling in six posts of Deputy Registrar.

In this context, the observations of the Supreme Court need to be referred to, as it would obviously govern the selection to the posts in question, as also to other similar selections by the University.

75. In ***Madhya Pradesh Public Service Commission Vs. Navneet Kumar Potdar and another (1994) 6 Supreme Court Cases 293***, it has been held that even where no written test is held, if the number of applicants for a post are far in excess of the number of posts involved, then some kind of selection criteria should be adopted by the Selection Committee, so as to make the interview for selection, a meaningful exercise. It was held that where the number of candidates is so large that it would be virtually impossible to give enough time to each candidate to assess her/his ability, then it would be a meaningless exercise to hold such a selection process. As such, even though candidates falling within the zone of consideration, in terms of possessing the minimum essential qualifications, may be very large, yet the selection committee would be within its jurisdiction to evolve a

suitable criteria to ensure that only such number of candidates is interviewed as can be reasonably interviewed from amongst those who had applied and are otherwise within the zone of consideration.

Naturally, the criteria to be evolved by the selection committee / body has to be wholly objective and based on rational parameters and not arbitrary in any manner.

In *Potdars' case* it was also held that calling candidates with at least 7½ years experience, even though the basic eligibility condition was 5 years, was a valid criteria, so as to ensure that a wholly excessive number of candidates is not called.

Similarly, in *S.B.Mathur and others Vs. Chief Justice of Delhi High Court and others, 1989 Supp(1), Supreme Court Cases 34*, the same principle was reiterated (reference paragraph 20 of that judgment).

76. No doubt the aforesaid cases pertained to selection of judicial officers by expert bodies i.e., Public Service Commissions, however, in the opinion of this Court, the principle would still remain the same and as such, the respondent-University would be within its right to restrict the number of candidates to be called for interview, even in the absence of any written test, if the number of applications received for the six posts in question is found to be highly excessive. Of course, if the number of applications is not so numerous as to preclude fair selection, by giving enough time to each candidate in order to assess her/his ability in the interview, then of course there may be no restriction needed on the number of candidates to be called for the interview, if they are otherwise eligible for the posts in question.

77. Next coming to the other issue raised by learned counsel for the petitioner, i.e. as to whether the vacancies must be filled in as per the rules existent at the time when the Advertisement was issued in 2013 or in 2011.

Mr.Dinesh Kumar had referred to *Rangaiah's case* and *Caltons' case (supra)*, to submit that old vacancies must be filled in by old rules.

That principle in my opinion, cannot apply to posts that are being filled in by a direct recruitment and that too after a number of years after the vacancies have arisen. As per the case of the petitioners themselves, the posts were first advertised in the year 2010 but were not filled in; after which the rules were amended pursuant to the resolution of the Syndicate dated 03.04.2011 and the decision of the Vice Chancellor on the recommendations of the Committee constituted by the Syndicate.

Thus, even the advertisements of 2011 and 2013 were actually issued after the qualifications for the posts had been amended, which action is not under challenge by the petitioners (even though the posts advertised at that time were vacant from before the amendment made in the Rules). In fact, though they have criticized the postponement of the selection time and again and perhaps rightly so, however, firstly, to fill in or not fill in a post is wholly the prerogative of the appointing / recruiting body as per settled law and secondly, in the context of the present case, the contention of the petitioners then would have to be also extended to hold that even the amended qualifications prescribed in the Advertisements of 2011 and 2013 were not valid.

Of course, if this Court were to hold that those advertisements

were also not as per law, it would not hesitate to do so; however, the judgments in *Rangaiahs' and Caltons' cases (supra)* do not apply, as already stated, to posts to be filled in by direct recruitment.

78. In this regard the judgments of the Supreme Court in *Rajasthan Public Service Commission Vs. Chanan Ram and another (1998) 4 Supreme Court Cases 202*; *Deepak Aggarwal and another Vs. State of Uttar Pradesh and others (2011) 6 Supreme Court Cases 725* and *State of Jharkhand and others Vs. Ashok Kumar Dangi and others (2011) 13 Supreme Court Cases 383* can be cited. In the last two cases, reference was made to *Chanan Rams' case*, to hold that “candidates who had appeared for the examination and post the written examination had only legitimate expectation to be considered according to the rules then in vogue. The amended Rules had only prospective operation. The Government was entitled to conduct selection in accordance with the change rules and make final recruitment”.

No doubt in *Ashok Kumars' case (supra)* one of the important factors that governed the decision was that the candidates had already participated in the selection process and only after they were not selected did they challenge the selection process on the ground that old vacancies must be filled in by old rules. However, the principle in *Chanan Rams' case* was reiterated, as it was in *Deepak Aggarwals' case (supra)*.

79. Though no specific argument in that regard was raised, however, an argument flowing from the above could also be that the “rules of the game cannot be changed after the game has started” and in this case, since the

selection process had started vide Advertisement no.1 of 2013 at least (if not vide the earlier advertisements), amendment of the qualifications thereafter would be hit by this maxim.

In this regard, it must be said that even if the advertisement of 2013 is considered to be in continuation of the earlier advertisements of 2010 and 2011 and not a fresh process, the recruiting institution would be within its right to fill in posts as per requirement only. Even so, no interviews having been held at the time when the corrigendum was issued, it cannot be said that the “rules of the game” were changed mid way through the process, in view of the fact that the last date fixed for receiving applications pursuant to Advertisement no.1/2013, was 20.02.2013, whereas the corrigendum was published on 19.02.2013. Of course, it is very possible that most of the applications had been received by then and the possibility of a change in criteria for other than *bona fide* reasons may not otherwise be possible to be ruled out. However, for the reason that eventually the criteria has been ratified by the competent authority, w.e.f. 27.02.2016, with the selection process having been stayed by this Court in the meanwhile, it is not possible to hold that “the rules of the game were changed mid way through the game” in such circumstances.

This is, of course, other than the fact that the principle behind the aforesaid maxim has been referred to for adjudication to a larger Bench of the Supreme Court in ***Tej Parkash Pathak and others Vs. Rajasthan High Court and others (2013) 4 Supreme Court Cases 540.***

80. In any case, otherwise also, this Court having held the process of

inviting candidates other than those who had applied afresh after the corrigendum was issued to be bad, the selection process itself has to begin afresh.

This is, still further, in addition to the fact that in terms of the judgments cited hereinabove, in *Chanan Ram etc.*, selection as per amended rules, for posts to be filled in by direct recruitment, has been upheld by the Supreme Court.

81. The next question then is whether any of the petitioners in these two writ petitions has locus standi to file the writ petitions. Though the issue of locus standi is normally the first issue that is to be decided in any petition filed, however, with irregularity in the selection process itself having been shown to this Court, other than the basic illegality in the process of changed qualifications that were made in the eligibility criteria, this Court, naturally could not close its eyes to the main issue and therefore, those issues have been decided before taking up this one.

82. Coming first to the petition filed by the Association and its Secretary, i.e. CWP no.15771 of 2015, I am in agreement with learned senior counsel appearing for the University, that the Association, obviously not being a candidate for the post, would actually have no locus standi to file a writ petition challenging the selection process, other than by way of a Public Interest Litigation, even though PILs in service matters are generally not entertainable. Of course, in an appropriate case, where fraud is proved, perhaps a court hearing such a PIL would exercise its discretion in entertaining such a petition.

This Court obviously is not oblivious of the fact that any illegality in a selection to public posts may need to be brought to the notice of the Court, in order to stop such illegality if it is taking place; however, in my opinion, the Association and its Secretary not being in a PIL, CWP no.15771 of 2015 has to be held to be not maintainable on that ground alone.

83. However, as regards the petitioner in CWP no.19003 of 2015, he admittedly is a candidate who has applied for the posts in question, and whether or not he was eligible in terms of the qualifications prescribed at the time that he applied for the post, he cannot be held to have no locus standi to file the petition.

Obviously, again, this Court is fully seized of the fact that this petition has been filed only after an objection was raised in the written statement filed in response to the first petition, as regards the want of locus standi of the two petitioners therein. Hence, the possibility of CWP no.19003 of 2005 also actually having been filed only to ensure that the challenge to the corrigendum was not 'obliterated' on account of dismissal of the first writ petition on that ground cannot be discounted. Even so, it is not possible to hold that the petitioner in the second writ petition does not have locus standi to file the petition.

It is also quite obvious to this Court that even by the last date that application forms were to be submitted in terms of the qualification laid down in the corrigendum, this petitioner also did not have the requisite qualification, he not having completed 4 years as a Superintendent by such last date, i.e. 23.03.2013, his 4 years being complete only on 06.07.2013.

Similarly, the minimum number of years as Superintendent being 5 years as per the Advertisements of 2011 and 2013, he in any case did not fulfill that criteria.

Yet, he being a candidate who had applied and having brought to the notice of this Court, the illegality of the qualifications stipulated in the corrigendum at the time when it was issued, this Court would not oust him or dismiss the writ petition on the ground of the lack of locus standi, he being a candidate for the posts and having also specifically raised the issue of extensions being given in the validity period of the advertisements issued. One of the contentions is that instead of extending the validity of earlier advertisements, had fresh advertisements been issued, the petitioner would have come within the ambit of the revised qualifications. Thus, without commenting upon whether or not he would have been eligible to be considered for the posts in question, even had fresh advertisements been issued, however, with the admitted position being that the petitioner in CWP No.19003 of 2015 was a candidate who had applied for the posts, and this Court having gone into the issues raised in his petition, and having found that there was an illegality in the change in qualifications on the date of issuance of the impugned corrigendum and further, that there have been also irregularities in calling the candidates for interviews as had not applied afresh even in terms of the corrigendum, it would not hold petitioner Dharam Paul Sharma, to be without locus standi to file the petition. Hence, he is held to have locus standi to file the petition, even though by now he may possibly have superannuated from the post he was holding.

In any case, as already observed, an illegality having been brought to the notice of this Court, both in terms of prescribing a qualification which was not approved by the competent authority at the time when the corrigendum was issued, and the University also having called for interviews, candidates as had not applied afresh, even in terms of the said corrigendum, this Court would not close its eyes to such an illegality, specifically with regard to public posts.

84. No doubt, at this stage, with the subsequent approval of the Syndicate of those very qualifications, they have now been held to be validly approved; however till 27.02.2016, when the Syndicate approved them, they cannot be held have been validly prescribed.

85. Consequently in view of all that have been discussed hereinabove, CWP no.15771 of 2015 is dismissed on the ground of lack of locus standi with the petitioners, whereas CWP no.19003 of 2015 is partly allowed, to the extent that the selection process by way of the interviews conducted in August 2013 for six posts of Deputy Registrar is quashed, alongwith the corrigendum issued / advertised on 19.02.2013, as already held in paragraph 73 hereinabove.

86. However, with the ratification of the changed qualifications by the Syndicate, the following directions are given to the University, to conduct the selection process as per the changed qualifications, if it still wishes to fill in the posts of Deputy Registrars:

- i) A fresh advertisement must be issued by the University
for the selection in question;

- ii) All candidates seeking to be considered for selection would need to apply afresh, in terms of the qualifications approved by the Syndicate vide its resolution dated 27.02.2016. However, candidates who had already applied earlier would not be required to furnish a fresh fee along with their applications, as was already stated in the impugned corrigendum;
- iii) The University would conduct the interviews by calling as many number of candidates for such interview process, as are rationally viable to be interviewed objectively, in terms of the ratio of the judgment in *Potdars'* case (supra), so as to ensure that a genuinely fair, meaningful and proper selection process is adopted.
- iv) The amended qualifications, as have been approved by the Syndicate of the University, shall be incorporated in University Non-Teaching Employees (Terms and Conditions of Service) Rules, 1971, within one month from the date of pronouncement of this judgment, and it is further directed that all the amendments made in any rules by the Syndicate, in terms of the authority validly conferred upon it, shall be published in the rules concerned, within a period of one month of the approval of the rules by the competent authority.

With the above directions, CWP No.15771 of 2015 is dismissed,
whereas CWP No.19003 of 2015 is partly allowed, with no order as to costs.

November 23, 2016
dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No