

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

CWP No.17333 of 2014

Date of Decision: May 12, 2016

Jagmohan Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. B.S. Rathee, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. H.N.Mehtani, Advocate
for respondent No.2.

DEEPAK SIBAL J. (ORAL)

Through the present petition, the petitioner seeks appointment as Assistant Engineer (Mechanical) against the post reserved for the Ex-servicemen category.

For adjudicating upon the issues raised in the present petition, the relevant facts which need to be noticed are that the petitioner, after having served the Indian Air Force for over 18 years on the technical side, applied for the post of Assistant Engineer (Mechanical) advertised by the respondent-State through advertisement dated 19.12.2012. 14 posts of Assistant Engineers (Mechanical) out of which one post was reserved for Ex-Servicemen were advertised to be filled up. As per the advertisement the prescribed academic qualification for the post in question was a Degree in Engineering. The petitioner who had served the Indian Air Force for over 18 years on the technical side was possessing a Diploma in Mechanical Engineering and on the strength of instructions of the Government of India

dated May 26, 1977 through which the Government of India had recognized a Diploma in Engineering with 10 years of technical experience in the relevant field as equivalent to Degree in Engineering, he applied for consideration of this candidature for appointment as Assistant Engineer (Mechanical). The petitioner was allowed to take part in the selection process and against the lone post reserved for Ex-servicemen, his name was recommended for appointment. However, no offer of appointment was made by the respondents on the ground that he did not possess a Degree in Mechanical Engineering or its equivalent giving a cause to the petitioner to approach this Court through the present petition for the relief as mentioned above.

Learned counsel for the petitioner submits that as per the instructions of the Government of India dated 26.05.1977, a Diploma in Engineering with 10 years of technical experience in the relevant field is to be recognized as equivalent to a Degree in Engineering and the same is to be considered valid for the purpose of selection for Gazetted posts under the Central or State Government.

Before proceeding further with the matter, the notification of the Government of India dated 26.05.1977 on which the primary reliance is placed by the learned counsel for the petitioner is reproduced below:-

“On the recommendations of the Board of Assessments for Educational Qualification of Defence Director (Tech.). the Government of India have decided o recognize a Diploma in Engineering in appropriate discipline plus total 10 years of technical experience in the appropriate fields is recognized as equivalent to DEGREE IN ENGINEERING. It is considered valid for the purpose of selection of

Gazetted posts and services under the Central Government or State Government.”

Admittedly, the petitioner possess a Diploma in Engineering along with more than 10 years of technical experience in the relevant field and in view of this uncontroverted fact, the only issue which needs determination is whether the aforesaid qualification and experience of the petitioner read with the notification of the Government of India dated 26.05.1977 makes him eligible for consideration for appointment to the post of Assistant Engineer (Mechanical) where the prescribed qualification is a Degree in Engineering.

It would not detain me for long to decide the afore-referred issue in favour of the petitioner as the same is no longer *res integra*. In this regard, the judgment of this Court in **CWP No.12505 of 2009** titled as **“Rohtash Kumar Nehra and another vs. Union of India and others”**, decided on 15.07.2010 can be referred to. Paragraph 4 of the judgment, which is relevant, is reproduced below :-

“As far as the recognition of the petitioners’ qualification by respondent No.4 is concerned, suffice it to say that once the Diploma along with the requisite technical experience possessed by the petitioners is formally treated equivalent to the ‘Degree in Engineering’ by the Government of India, respondent No.4 shall also be obligated in law to recognize and accept the said qualification as equivalent to Degree in Engineering. The writ petition is disposed of with a further direction to respondent No.4 to treat the petitioners as Degree holders for all intents and purposes.”

To the same effect is the judgment of this Court rendered in

CWP No.7955 of 2010 titled as **“Lal Chand Jangra vs. State of Haryana and others”**, decided on 21.12.2010, wherein it has been held as under :-

“All the petitioners are Ex-serviceman having served in the Air Force/Navy in the Technical stream. The petitioner-Lal Chand Jangra in CWP No.7955 of 2010 is serving as Junior Engineer since 25.02.2004. Petitioner - Sant Kumar is serving as Junior Engineer since 02.08.2004 whereas petitioners in CWP No.10429 of 2010 are also serving as Junior Engineer since the year 2004. Next promotion from the post of Junior Engineers to the post of Assistant Engineer. The same is governed by the statutory regulations. Regulation 9 deals with the recruitment to the post of Assistant Engineer. The said regulation provides that recruitment to the post of Assistant Engineer shall be 55% by direct recruitment and 35% by promotion from General Cadre. Out of 35% promotional quota, one of the source is from amongst Engineering Subordinate of General Cadre possessing AMIE/BE qualification and having 3 years service as such. 12½% vacancies are reserved for this category in promotion. Since the qualification is Degree in Engineering, the petitioners claim that they possess the requisite qualification. It is admitted position that the petitioners are Diploma holders and have served in Technical stream in the armed forces referred to above. Petitioners rely upon Government of India notification dated 26.05.1977 where under qualification of Diploma in Engineering in appropriate field is recognized as equivalent to Degree in Engineering. The aforesaid notification dated 26.05.1977 is reproduced as under:-

*“No. F 16-19/75/T-2
(Ministry of Education & Social Welfare
Deptt. of Education Technical)*

New Delhi 110001

Dated 26 May, 1977

Sub: Recognition of Technical Professional Qualification.

On the recommendation of the Board of Assessment for Education Qualifications and recommendation of Defence Director (Tech.), the Government of India have decided to recognize a Diploma in Engineering in appropriate discipline plus total ten years of technical experience in the appropriate fields is recognized as equivalent to degree in Engineering. It is considered valve for the purpose of selection to Gazette posts and services under the Central Government or State Government".

All the petitioners have placed on record certificates from their respective Commanding Officers to establish that they are possess of Diploma in the relevant field and have served more than 10 years in the Technical Stream in the Armed Forces. On the strength of the aforesaid documents, the petitioners claim to be qualified and eligible for consideration for promotion against 12½% promotional quota. Petitioners have also specifically averred that even after promotion of their juniors, a number of vacancies of Assistant Engineers in their stream are lying vacant. It seems that the respondents started verification of the qualifications of the petitioners from the Air Force record office and vide the communication dated 12.03.2010, the Superintending Engineer/Administration-II, Haryana Vidyut Prasaran Nigam Ltd. Has been informed that the diploma of engineering in appropriate discipline plus 10 years of Technical experience is equivalent to Degree in Engineering. Not only that even the qualification of the petitioners has been verified and

communicated to the respondents. The grievance of the petitioners is that despite verification of their qualifications, they are not being considered for promotion to the post of Assistant Engineer.

In view of the above, these petitions are allowed. Respondent Nigam is hereby directed to treat the qualification of the petitioners equivalent to Degree in Engineering and consider them for promotion to the post of Assistant Engineer against the available vacancies within a period of two months from the date a certified copy of this order is received by the competent authority and if the petitioners are found, otherwise, eligible, they be accordingly granted such promotion.”

The judgment of this Court in **Lal Chand Jangra's** case (*supra*), having been rendered by a learned Single Judge was taken up in an intra-court appeal through LPA No.1495 of 2011 which was dismissed by a Division Bench of this Court on 27.09.2011 by holding as under:-

“7. A perusal of the Memo shows that Diploma in Engineering in the appropriate discipline is to be recognized equivalent to degree in Engineering, provided that after acquiring the diploma the concerned candidate is required to acquire 10 years of technical experience in the appropriate field. It has no where been provided that the 'Diploma in Engineering' should have been possessed by the candidate at the time of entry into the service. The same could have been acquired even during the service. It is evident from the communication received from the armed authorities that all the petitioner- respondents have been awarded diploma in different disciplines. Thereafter they have also acquired 10 years technical experience in the appropriate field. The communication so received

was not challenged by the appellants either before the learned Single Judge or in these appeal. Therefore, the learned Single Judge rightly observed that the diplomas so acquired by the petitioner-respondents were to be recognized as equivalent to degree in Engineering, making them eligible for promotion to the post of Assistant Engineer.

8. We do not find any legal infirmity in the order passed by the learned Single Judge and the same is hereby upheld. These appeals being devoid of merit are hereby dismissed.”

Special Leave Petition being **SLP No.2876 of 2012** filed against the afore-quoted decision of the Division Bench in **Lal Chand Jangra's case (supra)** was also dismissed by the Apex Court on 12.03.2012.

The above referred decisions were followed in another recent judgment of this Court in **CWP No.10974 of 2012** titled as “**Ram Chander vs. HPGCL and others**”, decided on 18.03.2015 and by me in **CWP No.3954 of 2014** titled as “**Jagjit Singh (JE) and another Vs. Punjab State Power Corporation Limited and others**”, decided on 07.04.2015.

No judgment to the contrary has been cited.

In view of the facts as mentioned above and the settled position of law, I have no hesitation in holding the petitioner to be eligible for being appointed as an Assistant Engineer (Mechanical).

In view of the above, the writ petition is allowed and since the petitioner had already been selected and recommended for appointment, in view of what has been held above, the respondents are directed to appoint him as Assistant Engineer (Mechanical) under the Ex-servicemen quota with effect from the date when similarly situated persons were appointed in

pursuance to the same selection. However, he shall not be paid any salary on account of the fact that he had not worked but shall be entitled to all other consequential benefits.

No costs.

(DEEPAK SIBAL)
JUDGE

May 12, 2016
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