

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

1. **CWP No.26825 of 2013**
Date of decision: 22.12.2016
- Mandeep Singh** **..Petitioner**
- Versus**
- State of Punjab and another** **..Respondents**
2. **CWP No.10558 of 2013**
- Bharpur Singh and another** **..Petitioners**
- Versus**
- State of Punjab and others** **..Respondents**
3. **CWP No.57 of 2014**
- Hardeep Singh** **..Petitioner**
- Versus**
- State of Punjab and others** **..Respondents**

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Ms. Gurpal Kaur Dulat, Advocate
for the petitioner in CWP No.26825 of 2013.

Mr. Ramesh Goyal, Advocate
for the petitioners in CWP No.10558 of 2013.

Mr. S.S. Chadha, Advocate
for the petitioner in CWP No.57 of 2014.

Mr. Avinit Avasthi, AAG, Punjab
for the respondents -State.

Daya Chaudhary, J.

By this judgment of mine, three cases bearing CWP Nos.10558, 26825 of 2013 and 57 of 2014 shall be disposed of as common questions of law and issues are involved. However, for the sake of brevity, the facts are being extracted from CWP No.26825 of 2013.

Petitioner-Mandeep Singh has approached this Court by way of filing the present petition under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to consider the petitioner for appointment to the post of Assistant Cashier in the Treasury and Accounts Department, Punjab.

Briefly, the facts of the case as made out in the present writ petition are that an advertisement was published in the press by the Secretary, Subordinate Services Selection Board, Punjab (hereinafter called 'the Board'), whereby, 41 posts of Assistant Cashier in the Treasury and Accounts Department were advertised. Out of total 41 posts, 19 posts were of General Category, 10 posts were of SC category, 5 posts were of BC category, 5 posts were of Ex-servicemen Category, one post was of Sportsperson and one post was for physically handicapped category. The petitioner applied for the said post in BC category against total 5 posts meant for this category. As per advertisement, the qualification for the said post was that the candidates should be either 10th class first division or graduate. It was also mentioned that the candidates should have passed Math and Punjabi in the 10th class and should possess minimum three years' experience of handling cash and stamps from some bank/post office or govt. undertaking. As per advertisement, the merit list was to be prepared category-wise and result was to be declared on the website. It was also mentioned that the number of candidates called for counselling was to be five times of the number of the available posts. The petitioner considering himself eligible for the said post having matriculation examination certificate issued by the Secretary, Punjab School Education Board and

having requisite qualification and experience, applied against BC category. The petitioner appeared in the written test, which was conducted on 06.11.2011 and secured 23.75 marks. A public notice was published intimating that the cut off merit for the post of Assistant Cashier was fixed at 24.75 for BC category and counselling was fixed on 19.04.2012 at 9.30 am. The petitioner having merit of 23.75, was not called for first counselling whereas two candidates, namely, Iqbal Singh and Mohd. Nasim of same category secured 23.25 and 22.00 marks, respectively, and were lower in merit, were called for counselling. Thereafter, another notice was published on 12.05.2012 wherein it was mentioned that the required number of candidates did not appear in the earlier counselling held on 19.04.2012 and last opportunity was given to those candidates to appear for counselling on 21.05.2012. The cut off merit was also reduced to 20.50 against the earlier one, which was 24.75. The petitioner appeared along with all original documents of educational qualification, experience and reservation certificate for counselling. It was clearly mentioned in the experience certificate that the petitioner was working as a GDS Branch Post Master since 24.09.2005. However, it was inadvertently not mentioned therein that the petitioner had three years experience of handling of cash and stamps as the petitioner had performed job of Branch Post Master. Thereafter, another certificate was also produced wherein it was clearly mentioned that the petitioner was having experience of handling cash and stamps. The name of the petitioner was not mentioned in the list of selected candidates whereas he had secured merit of 23.75. Two other candidates, namely, Iqbal Singh and Mohd. Nasim had secured merit of 23.25 and 22.00, respectively, and

were lower in merit, were selected.

Learned counsel for the petitioner submits that the petitioner was much more meritorious vis-a-vis selected candidates as he was not only having requisite qualification but experience of the same field also. As per requirement of the advertisement, three years experience of handling cash and stamps was required but still the petitioner was not selected. Learned counsel further submits that there were total five posts of BC category and only two candidates, namely, Iqbal Singh and Mohd. Nasim, who were less in merit, were selected and three posts of said category are still lying vacant. Learned counsel also submits that the petitioner made various representations to the respondents but no response was received. The petitioner filed CWP No.17960 of 2013 before this Court wherein a direction was issued to the respondents to consider the case of the petitioner but still he was not considered. Totally a non-speaking order was passed stating that the petitioner was not having experience of handling of cash and stamps. At the end, learned counsel for the petitioner submits that the petitioner is entitled to be considered against the vacant post by considering his higher merit.

In response to notice of motion, reply has been filed by respondent No.2, which is on record.

Learned State counsel submits that the claim of the petitioner was not considered as he was not possessing the requisite qualification and experience. The documents of the petitioners were scrutinized and it was found that he was not having the experience of handling of cash and stamps and as such, he was not fulfilling the required qualification and experience

and, therefore, his case was not considered. Learned State counsel also submits that subsequently, another experience certificate was produced wherein there was no mention of handling of cash and stamps. The documents of experience appears to be procured.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the documents available on the file.

The facts relating to publication of advertisement; making application as well as merit in the written test are not disputed.

The claim of the petitioner was not considered only on the ground that he was not having relevant experience as per requirement of the advertisement. In the experience certificate dated 24.04.2012, it is clearly mentioned that the petitioner is working as Branch Post Master since 24.09.2005 and has experience of handling cash and stamps. Even his case was also recommended by considering his merit in the written test. In subsequent experience certificate issued by the Superintendent of Post Offices, Faridkot Division, Faridkot, it has been mentioned that the petitioner has been working as Gramin Dak Sewak and is having experience of handling of cash and stamps in Branch Post Office. Even in the representation dated 07.01.2013 made by the petitioner, it was clearly mentioned that his name was not mentioned in the merit list as there was a minor error in the experience certificate issued by the Postal Department, therefore, fresh experience certificate was obtained after rectifying the said minor error. In the subsequent experience certificate issued by the same authority, it was clearly mentioned that the petitioner was having experience

of handling of cash and stamps.

With regard to experience, it has been mentioned in the advertisement that the candidate must have experience of three years in handling of cash and stamps from any bank/post office or Govt. undertaking.

Same controversy was there in case of one Harinder Kaur, who filed CWP No.5144 of 2013. The petitioner in that case also applied against the same advertisement but her case was not considered. Her name was not mentioned in the selection list and candidates, who were lower in merit, were selected. Same objections were raised in her case that she was not having requisite experience of handling of cash and stamps as prescribed in the advertisement. The petitioner made representation but no action was taken. Thereafter, her case was rejected and she approached this Court by way of filing CWP No.5144 of 2013, which was allowed by this Court by holding that it was not pointed out that any kind of special knowledge is required to handle stamps and once a candidate can handle cash and maintain accounts then how said experience cannot be counted. Although her experience was verified by the SMO, PHC, Harpalpur and her claim was accepted against vacant post. The petitioner in that case was declared eligible for the post of Assistant Cashier having requisite qualification and experience and respondents were directed to offer appointment to the petitioner on the said post within a period of two months from the date of receipt of certified copy of the order.

In the present case, the claim of the petitioner was rejected only on the ground that he was not possessing the requisite qualification and

experience. In the appointment letter issued to petitioner-Hardeep Singh, the brief of duties assigned was mentioned wherein it has been mentioned in detail that it was expected from the petitioner to carry out the duties as to be assigned by the employer. The brief of duties assigned is reproduced as under:-

“2)Brief of Duties Assigned:

You are expected to carry out all such duties as may be assigned by the HOD, DWSS from time to time. Main duties are listed below: -

- *Quarterly Reconciliation with A.G., and Assisting in A.G. (Audit).*
- *Preparation of Treasury Office Orders/Sanctions/ Vouchers, Vouchers Punching in MIS-Software, Writing Cash Book and Activity Register.*
- *Payments to Consultants and Contractors, handling of advances/imprest/cash issue to staff, postage stamps, dispatch, record of Vouchers, files, and agreement on stamps papers with firms/Companies in lockers/key under safe custody.*
- *Duties to make all payments in cash like Telephone Bills, Mobile Bill, Data Card Payments and petty cash expenses payments etc. are being paid well before the due date to avoid any penalty.*
- *Banking: Preparation of Cheques/Demand draft, cash of cheques/ Demand Drafts and Cash deposited in Punjab Govt. A/c i.e., Treasury A/c of GPF of staff and Misc. Receipts and keep the record of Cheque Books/Pb. Govt. Cheque books in locker, Collecting Bank Statements and other Misc. Jobs related with Bank.*

- *To deal with Treasury work i.e. Presenting LOC in District Treasury office, deposit of parties bills for payment and collecting of party Demand draft/cheques from Treasury office and sent for cash/realization into Banks for payment of statutory liabilities like Income Tax and service Taxes due etc.”*

Learned State counsel has tried to distinguish the case of the petitioner to the case of Harinder Kaur only on the ground that in that case, verification of experience was done but in the present case, no verification was done due to same experience and the claim has been rejected.

On the basis of nature of duties and terms as mentioned in the appointment letter, the controversy in case at hand is squarely covered by decision of case of Harinder Kaur.

Accordingly, for the reasons recorded above and by considering the parity with **Harinder Kaur's case (supra)**, CWP Nos.26825, 10558 of 2013 and 57 of 2014 are allowed and the petitioners are declared eligible for the post of Assistant Cashier having requisite qualification and experience. Respondents No.1 and 2 are directed to offer appointment to the petitioners on the post of Assistant Cashier within a period of one month from the date of receipt of certified copy of this order. However, the petitioners shall be entitled to all the benefits from the date of joining.

22.12.2016
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

√
Yes/No

Whether Reportable

√
Yes/No