

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2534 of 2016 (O&M)

Date of Decision:- 22.4.2016.

Madan Lal

.....Petitioner

Versus

The New India Assurance Company Limited and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Shiv Kumar, Advocate for the petitioner.

Mr. V. Ramaswaroop, Advocate for the respondents.

P.B. BAJANTHRI, J.

1.) In this petition, the petitioner has questioned the validity of the impugned communication/order dated 29.1.2016 (Annexure P-15) by which his grievance to award 15 marks of technical qualification on account of having MBA qualification after 31.12.2014 has not been redressed.

2.) The petitioner is working as an Assistant. He is one of the candidate for the promotion to the post of Senior Assistant.

Method of recruitment to the post of Senior Assistant is as follows:-

“14 Promotion to the cadre of Senior Assistant:

Employees in the Assistant's scale who have:-

a) Qualified as F.I.I.I or F.C.I.I. or passed five subjects of the Institute of Actuaries

OR

b) Put in at least 3 years in the cadre and are qualified as A.I.I.I or A.C.I.I. Or have passed 3 subjects of the Institute of Actuaries,

OR

c) Put in at least 5 years service in the cadre and have passed Licentiate Examination of the I.I.I or have passed one subject of the Institute of Actuaries.

OR

*d) Put in at least 7 years service in the cadre,
e) Reached the ceiling of the Assistants' scale,
shall be eligible for consideration of promotion to the cadre of Senior Assistants.*

14.1 Selection shall be made on the basis of Seniority, Qualifications and Work Record.”

3.) Schedule of the Senior Assistant Promotion Exercise is as follows:-

Base date for eligibility	31/12/2014
Issuance of circular for inviting application in the prescribed format	21/12/2015
Last date of receipt of application	04/01/16
Publication of Eligibility list by individual ROs	08/01/16
Publication of Consolidated eligibility list by Nominated ROs	14/01/2016
Publication of Consolidated Panel list by Nominated ROs	20/01/2016
Declaration of Ranking List	By 29/01/2016

4.) Question for consideration in this petition is that the petitioner is entitled to 15 marks in view of his acquisition of MBA qualification vide para 17.2.2 of the Promotion Policy which reads as under:-

17.2.2 Technical Qualifications: The maximum marks for technical qualifications shall be 15 and shall accrue as under:-

	Qualification	Marks
i)	Licentiate of Insurance Institute of India or one subject of Institute of Actuaries or Post Graduate Diploma (minimum one year duration) in Computer Applications/Business Administration/Management of Recognized University/Institute having AICTE approval for the course	5
ii)	Associate of Insurance Institute of India or Associate of Chartered Insurance Institute or three subject of Institutes of Actuaries	10
iii)	Fellowship of Insurance Institute of India or Fellowship of Chartered Insurance Institute of Associate of the Institutes of Chartered Accountants of India or Cost and Works Accountants of India or passing at least 5 subjects of Institutes of Actuaries or Master of Business Administration (MBA) qualification from a recognized University or Post Graduation Diploma (Minimum two year duration) in Business Administration/Management (PGDBM) or Master in Computer Applications (MCA) from a recognized University/Institute having AICTE approval for the course or Chartered Financial Analyst (CFA) qualification from the Institute of Chartered Financial Analysts of India or Associate of Institute of Company Secretary (ACS) qualification from the Institute of Company Secretaries of India;	15

5.) The petitioner has not been awarded 15 marks for acquisition of MBA qualification on the sole ground that he has acquired the said qualification in the month of July, 2015 i.e. subsequent to the base date for eligibility – 31.12.2014. Learned counsel for the petitioner submitted that one of the candidate namely Nalni Vaid who has “Insurance Qualification” (one of the Technical Qualification) acquired in the month of September, 2015 i.e, subsequent to the base date for eligibility – 31.12.2014 and she has been awarded 15 marks for the said qualification under clause 17.2.2.(iii). On 11.4.2016, a direction was issued to the second respondent – General Manager, New India Assurance Company Limited to file an affidavit whether holders of MBA qualification have been denied 15 marks as per the Promotion Policy and reasons for

not awarding 15 marks with reference to clause 17.2.2 (iii). Today learned counsel for the respondent submitted that he has received affidavit through mail dated 21.4.2016 and the same has been furnished and is taken on record. Para 4 of the affidavit is relevant for deciding the issue involved in the following case. Denial of awarding 15 marks to the petitioner for acquiring MBA qualification is that as on the base date of eligibility – 31.12.2014. The petitioner did not have the qualification of MBA and he has acquired MBA qualification subsequent to base date of eligibility – 31.12.2014 i.e. in the month of July, 2015. Cut off date for awarding 15 marks for acquisition of MBA qualification has not been stipulated or notified. What has been stipulated is base date of eligibility. The base date of eligibility is to be taken into consideration for the purpose of para 14 viz., qualification prescribed for the promotion to the cadre of Senior Assistant, it is to be noted that for the purpose of promotion to the cadre of Senior Assistant, MBA qualification is not one of the qualification so as to deny 15 marks for acquisition of MBA qualification subsequent to base date of eligibility – 31.12.2014. Even if the last date of receipt of the application is taken into consideration, it was fixed as 4.1.2016, the date on which the petitioner had acquired the MBA qualification. In view of these facts and circumstances denial of awarding 15 marks to the petitioner is contrary to para 14 read with para 17.2.2 (iii). Moreover one Nalni Vaid who has been awarded 15 marks for acquisition of “Insurance

Qualification” subsequent to the base date of eligibility – 31.12.2014. Similarly, the petitioner is also entitled to 15 marks for acquisition of MBA qualification. The respondents have mis-interpreted the base date for eligibility. Base date for eligibility is to be understood with reference to prescribed qualification for the post of Senior Assistant. That apart, respondents have discriminated in awarding 15 marks under clause 17.2.2 (iii), namely, awarding 15 marks to Nalni Vaid for acquisition of “Insurance Qualification” under 17.2.2 (iii) and denial of 15 marks to the petitioner for acquisition of MBA qualification. In view of the facts and circumstances, Annexure P-15 dated 29.1.2016 is set aside.

6.) The respondents are directed to re-consider the grievance of the petitioner with reference to base date of eligibility means eligibility to the post and not for acquisition of additional qualification stipulated in clause 17.2.2 (iii) and to award 15 marks to the petitioner on par with Nalni Vaid and issue consequential promotion order if the petitioner is otherwise eligible including monetary benefits and seniority within a period of two months from today.

7.) Civil writ petition is allowed.

(P.B. BAJANTHRI)
JUDGE

April 22, 2016.

sandeep sethi