

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.9644 of 2016
Date of Decision: 06.09.2016

Umesh Kumar
... Petitioner

VS.

State of Haryana & Ors.
... Respondents

CORAM: HON’BLE MR.JUSTICE SURYA KANT
HON’BLE MR.JUSTICE SUDIP AHLUWALIA

1. Whether speaking / reasoned?
2. Whether reportable?
3. Whether Reporters of local papers may be allowed to see the judgment?
4. To be referred to the Reporters or not?
5. Whether the judgment should be reported in the Digest?
- Yes / No
Yes / No
Yes / No
Yes / No
Yes / No

Present: Mr. Gaurav Sharma, Advocate for
Mr. Parveen Bhardwaj, Advocate for the petitioner

SURYA KANT, J. (Oral)

(1) The petitioner has laid challenge to the vires of part of Appendix B (Sr.No.6) of the Haryana Economic and Statistical Analysis Department (Group C) Service Rules, 2013 to the extent of prescription of qualification for promotion to the post of Statistical Assistant. The aforesaid Rules reads as follows:-

Designation of Posts	Academic qualifications and experience, if any, for direct recruitment	Academic qualifications and experience, if any, for appointment other than by direct recruitment
“6.Statistical Assistant	xxxx xxxx xxxx	By promotion - (i) Graduate from a recognized University with Economics or Agricultural Economics or Commerce or Mathematics or Statistics as one of the subjects; (ii) One year experience as Field Assistant.

By transfer/deputation:

(i) Master's degree in Economics or Agricultural Economics or Mathematics or Commerce from a recognized University with at least 50% Marks and Statistics as one of the papers at the Master's level;

OR

Master's degree in Statistics or Operation Research from a recognized University with at least 50% Marks;

OR

Graduate with at least 60% Marks from a recognized University with Economics or Agricultural Economics or Commerce or Mathematics or Statistics as one of the subjects;

(ii) Knowledge of Hindi/Sanskrit upto Matric Standard or higher education;

(iii) Preference will be given to candidates having basic knowledge of Computer operation (MS Word, MS Excel, Power Point etc.).”

(2) Since one of the essential qualification prescribed for 'promotion' is that the incumbent must be a Graduate from a recognized University with Economics or Agricultural Economics or Commerce or Mathematics or Statistics as one of the subjects, the petitioner questions the same to be arbitrary and consequently has also laid challenge to the promotion of his juniors who possess such qualification.

(3) It may be mentioned here that the petitioner joined the respondent-Department as Peon on regular basis and was later on promoted as Octroi Clerk and then as Junior Field Assistant followed by further promotion as Field Assistant. He thus belongs to the feeder cadre for promotion to the post of Statistical Assistant. As the petitioner does not possess qualification of graduation with one of the specified subjects, though he is otherwise a Graduate, that he has questioned the *vires* of Rules *ibid*.

(4) Having heard learned counsel for the petitioner and after giving our thoughtful consideration to the grounds pressed into service, we do not find any merit in this writ petition. We say so for the reason that prescription of qualification for a post, with reference to the nature of duties attached thereto, is essentially the responsibility of the executive and such an exercise is invariably undertaken by the subject experts. The subject qualification has also been prescribed keeping in view those parameters and it is being applied to all on uniform basis. The very nomenclature of the post, namely, the Statistical Assistant suggests that the knowledge of Economics, Commerce, Mathematics or Statistics has a direct bearing on the quality of the services to be rendered by the appointee and, therefore, such a qualification cannot be held to be irrational or irrelevant as suggested by the petitioner.

(5) The subject Rules have been notified under *proviso* to Article 309 of the Constitution and are statutory in character. Such Rules cannot be interfered with lightly, save where a case of unconstitutionality or its provisions directly in derogation to the Statute, is made out. The petitioner has failed to highlight any such incurable defect in the Rules.

(6) For the reasons afore-stated, we do not find any merit in this writ petition which is accordingly dismissed.

(Surya Kant)
Judge

06.09.2016
vishal shonkar

(Sudip Ahluwalia)
Judge