

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

LPA No.1361 of 2016 (O&M)

Date of Decision: 02.08.2016

New India Assurance Co. Ltd. & Ors.

...Appellants

VERSUS

Madan Lal

....Respondent

**CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present:- Mr.Ravi Kapur, Advocate for the appellants.

SUDIP AHLUWALIA, J. (Oral)

This appeal has been preferred against the judgment of the Ld. Single Judge dated 22.4.2016 in allowing the Civil Writ Petition No.2534 of 2016 filed by the respondent, whose grievance was that the Appellant/Insurance Company had wrongfully omitted to award 15 marks to him on account of his possessing certain Technical Qualifications by way of an MBA degree, for the purpose of promotion to the post of Senior Assistant in the Company

The Base date for Eligibility to such promotion was 31.12.2014, the last date of receipt of applications for such purpose was 4.1.2016. In terms of Para 17.2.2 (iii) of the Promotion Policy, 2008, 15 marks were awardable to a candidate if he was to possess either of the various "Insurance Qualifications" specified, including Master of Business Administration (MBA) from a recognized University.

It was, however, denied to the respondent on the ground that he had acquired such "Insurance Qualification" subsequently in the year 2015 i.e. after the Base date for eligibility. His representation submitted in that regard was rejected by the Appellant by its communication dated 29.1.2016 (Annexure P-15), which was issued in compliance of an earlier direction of this Court in CWP No.1478 of 2016. This communication was ostensibly a Speaking Order in compliance of the Court's direction and the reasons for not awarding 15 marks for qualification possessed by the respondent in the writ petition were set out therein as under:-

"The representation dated 15.01.2016, attached with the writ petition as Annexure P-13 has been perused and it has been pleaded therein that in the consolidated eligibility list published by the New India Assurance Company on 14.01.2016 for promotion to the cadre of Sr. Assistant, you are not given the technical qualification marks of MBA i.e. 15 marks. It was further requested that since you are in receipt of qualification pay since 2015, therefore, the marks of technical qualification of MBA i.e. 15 marks be allowed to you.

*In this regard, you are informed that vide mail dated 12.01.2016 in response to our mail dated 11/01/2016, the Corporate office had conveyed the decision "**that the Insurance Qualification only which may be reckoned for the purpose of eligibility as also for grant of marks for technical qualification, if the results of the same are declared and proof of passing the examination is produced on or before the last date of receipt of application for promotion**".*

In response to the orders of the Punjab & Haryana High Court referred to above, the matter has again been reviewed and it has been decided that there is no change in the stand of the Company.

Since the competent authority has agreed for insurance qualification only for the purpose of grant of marks for technical qualification, the qualification of MBA as acquired by you after base date i.e. 31/12/2014 cannot be equated with the insurance qualification and thus you are not entitled for grant of 15 marks of technical qualification on account of your having qualified MBA after base date."

The Ld. Single Judge was, however, not convinced with the aforesaid reasoning of the Company for denying the relevant marks to the respondent. He observed that "Base date for Eligibility is to be understood

with reference to the prescribed qualification for the post of Senior Assistant.” It was thus spelt out that the Base date for eligibility was in relation to the minimum basic prescribed qualification and not for the additional “Insurance Qualification” covered under Para 17.2.2. Furthermore, undisputedly, the Company had awarded the same 15 marks to another employee, namely, Nalni Vaid, who had similarly acquired the additional “Insurance Qualification” under Para 17.2.2 (iii) in September, 2015 i.e. much after the lapse of purported Base date for eligibility. In these circumstances, the approach and conduct of the appellant/Company clearly smacks of discrimination qua the respondent- writ petitioner. We, therefore, are in full agreement with the decision of the Learned Single Judge.

The appeal is, therefore, dismissed in limine. All other applications thus stand disposed of.

(Surya Kant)
Judge

(Sudip Ahluwalia)
Judge

2.8.2016
AS

Whether speaking/reasoned : ***Yes/No***

Whether Reportable : ***Yes/No***