

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

LPA No. 640 of 2015(O&M)

Date of Decision: May 9 , 2016.

Sahab Chand APPELLANT (s)

Versus

State of Haryana and others RESPONDENT (s)

**CORAM:- HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Namit Kumar, Advocate
for the appellant.

Mr. Anil Mehta, DAG, Haryana.

Mr. Tajender K.Joshi, Advocate
for respondent No.4.

Mr. D.S.Rawat, Advocate
for respondent No.5.

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

MAHESH GROVER, J.

The appellant has impugned the judgment of learned Single Judge dated 08.12.2014. We may notice the facts, in brief.

An advertisement was inserted by the official respondents on 12.03.2010 inviting applications for the post of Naib Tehsildar in PWD

(B&R) Department and the qualifications prescribed are as below:-

- “E.Q. i) Graduate of a recognized University
ii) Hindi/Sanskrit upto Matric standard
iii) Training: one to two years with Revenue Department.”

Reference is made to the Haryana Public Works Department (Buildings & Roads), Naib Tehsildar (Group-C) Service Rules, 1966 to contend that the advertisement which prescribed the condition of training was in conflict with them. For ready reference, the relevant Rule is also extracted hereunder:-

APPENDIX B
(See rule 7)

Designation of post	Academic qualifications and experience, if any for direct recruitment.	Academic qualifications and experience, if any for appointment other than by recruitment
1	2	3
Naib Tehsildar	(i) Graduate of a recognized University. (ii) Knowledge of Hindi upto Matric standard.	xx xx xx

Rule 10 however provides for training and departmental examination to the candidates, is also extracted as below:-

“TRAINING OF CANDIDATES AND DEPARTMENTAL EXAMINATION:

- (1) Naib Tehsildars appointed by direct recruitment or by transfer shall undergo revenue training as specified in Appendix E. They shall also pass the departmental examination within two years from the date of their appointment. The rules for the departmental examination of Naib Tehsildars are contained in Appendix E:

Provided that the appointing authority may for reasons to be recorded in writing extend the period for passing the departmental examination.”

Learned counsel for the appellant contends that since the condition of training was not one of the essential qualifications, the advertisement itself is bad and any selection made pursuant thereto would suffer from illegality and deserve quashing.

We have also noticed that neither the appellant nor the selected candidates i.e., respondents No.4 and 5 possessed the qualifications as prescribed in the advertisement insofar as the issue of training is concerned. Another fact which needs to be dilated here is that according to Rule 10 the training would evidently commence after the selection process is over. Therefore, the prescription of the training as a requisite was clearly erroneous but neither the appellant nor did anyone challenge the advertisement prior to selection process.

We also do not find any reason to interfere with the impugned judgment for the reason that neither the appellant nor the selected candidates were qualified in terms of the advertisement rendering a level playing field for all aspirants. Therefore, the prescription of training did not in any way prejudice either the individuals who participated in the selection or ones selected. None challenged the selection process and the other qualifications, being Graduate from recognized University and knowledge of Hindi upto Matric was possessed by all.

Learned counsel for the appellant contends that he was

having revenue training of one and half year as a Patwari and thus was on a better footing than respondents No.4 and 5.

We do not find this to be an argument worth acceptance for simple reason that the appellant is not qualified as per Rules and if he had some revenue training that itself would not *ipso facto* make him more acceptable than respondents No.4 and 5 unless it is shown that the selected candidates stole a march over him in terms of the other selection criteria that may have been prescribed by the official respondents or there was malice attributed to the selection process.

No such material has been placed on record and rather no averment to this effect has been made to question the veracity of the selection on any other criteria.

Since the insertion of the training clause in the advertisement was largely rendered superficial and it did not influence the selection process in any manner, we are of the opinion that the selection of respondents No.4 & 5 and judgment of the learned Single Judge dated 08.12.2014 upholding it to negate the challenge given by the appellant, does not warrant interference.

Consequently finding no merit, the appeal is dismissed.

(MAHESH GROVER)
JUDGE

(LISA GILL)
JUDGE

May 9 , 2016.
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