

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18348-2015

Date of Decision: April 18, 2017

Inderjeet

.....Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam Limited and another

.....Respondents

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

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

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Present: Mr.I.D.Singla, Advocate
for the petitioner.

Mr.R.D.Bawa, Advocate
for the respondents.

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SURYA KANT, J.

The petitioner has laid challenge to the Notification dated 20.10.2006 issued by *Dakshin Haryana Bijli Vitran Nigam* in purported exercise of its powers conferred under Clause-C of Section-79 of the Electricity (Supply) Act-1948 read with Haryana Electricity Reforms Act-1997 and all other enabling powers in this behalf, whereby qualification for direct recruitment to the Post of Assistant Engineers (Electrical) has been revised.

[2] The aforementioned Notification prescribes the following qualifications for direct recruitment to the above-stated post:

“8(i)(a) Has obtained Bachelor Engineering Degree or

equivalent from any Indian/Foreign University/Institute duly recognised by All India Council of Technical Education with a minimum of 60% marks in respect of General Category candidates and 55% marks for reserved category candidates in any one of the following disciplines:-

- a) Electrical/Electrical and Electronics Engineering.
- b) Electronics/Electronics & Communication/Electronics & Telecommunication/ Electronics & Electrical Communication Engineering.
- c) Must have passed Hindi/Sanskrit up to Matric standard.
- d) Should have undertaken at least one year Diploma course in Computer from any institution recognised by the Government of Haryana. However, one year Diploma Course qualification is not required in case, candidates have computer subject in their Degree Course.”

[3] The petitioner, who is working as a Junior Engineer in the respondents-Organisation and appears to have obtained 'AMIE' degree assails the Notification on the grounds, inter alia, that the Electricity (Supply) Act, 1948 stands repealed by the Electricity Act, 2003. Hence, no power could be invoked under a repealed statute. Consequently, deletion of qualification of 'AMIE' for the purpose of direct recruitment to the post of Assistant Engineer (Electrical) is stated to be arbitrary and illegal.

[4] As regard to the first contention, it could not be disputed by learned counsel for the petitioner that the competent Authority can always revise the qualification for a post in exercise of its inherent powers also except where it is incorporated in a Statute or Rules which are required to be amended in the prescribed manner. Further, the competent Authority has

statute is admittedly operative. Still further the Notification refers to all other 'enabling powers' which necessarily means the 'inherent powers' vested in terms of the General Clauses Act. The power to prescribe qualification for a post also includes the power to modify such qualification. We, thus, do not find any merit in the first contention.

[5] As regard to the second plea, namely, whether or not 'AMIE' should be included as a valid qualification for direct recruitment to the post of Assistant Engineer, we are of the view that such a decision has to be left within the domain of the Policy Makers. The prescription of qualification for a post is a matter of Policy decision, to be taken keeping in view the nature of duties, responsibilities, the pay structure and the relevant nature of academic/professional qualification needed for such Post. These considerations can be better appreciated by those who possess the requisite expertise in the field. The Courts would be extremely reluctant in entering into such like area save where the prescribed qualification is totally absurd, irrelevant or alien to the nature of duties attached to a post. The petitioner having failed to make out such an exceptional case, his second contention must also meet the same fate.

[6] For the reasons aforestated, the petition is dismissed.

(SURYA KANT)
JUDGE

April 18, 2017
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(SUDIP AHLUWALIA)
JUDGE

- 1. Whether speaking/reasoned ?**
- 2. Whether reportable ?**

Yes/No
Yes/No