

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

Date of decision : January 19, 2017

1. C.W.P No. 20467 of 2014 (O&M)

Anjli Rani vs State of Haryana and others

2. C.O.C.P No.1168 of 2015

Anjli Rani vs Shri Ram Niwas and others

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Ms. Anu Chatrath Kapoor, Sr. Advocate
with Ms. Harman Preet Kaur, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG Haryana

Ajay Tewari, J (Oral)

This order shall dispose of CWP No.20467 of 2014 and
COC P No.1168 of 2015.

Challenge in the writ petition is to the order dated
21.08.2014 (Annexure P-6) rejecting the claim of the petitioner for
regularization of her services on the post of Lab Technician, and to the
orders dated 19.09.2014 (Annexure P-21) and dated 20.09.2014

(Annexure P-22) declaring her ineligible due to non-possession of requisite qualification and consequently relieving her from the post of Lab Technician.

Brief facts are that the petitioner is claiming the post of Lab Technician in the department of Health and Family Welfare, statutory qualifications for which have been reproduced in para 8 of the writ petition and are as follows :-

- “ i) 10+2 with Physics and Chemistry and one year Diploma of Lab Technician from an Institution recognized by Haryana Government.
Or
Matric with Diploma of Laboratory Technician from Institution recognized by State Technical Education Board.
- ii) Hindi or Sanskrit upto Matric Standard.”

The petitioner, admittedly, has done her 10+2 with Physics and Chemistry and obtained her one year Diploma from the Institute of Public Health Hygiene Manipalpur, New Delhi. The post in question was advertised. The petitioner applied and after considering all her qualifications, was appointed on contractual basis, vide letter dated 26.04.2011. Ten days before her contract was to expire, her services were terminated on the ground mentioned above.

Learned senior counsel for the petitioner has argued that in the year 1975, by document Annexure P-9, the State of Haryana on the

as under :-

“ 1) Those degrees or diplomas etc. which are recognized by Government of India, those will be deemed recognition by Government of Haryana also.”

Learned senior counsel for the petitioner has further contended that the Institute of Public Health Hygiene Manipalpur, New Delhi is recognized by the Government of India and consequently the State of Haryana cannot now turn around and say that the petitioner is not qualified.

In the reply, and as per learned AAG Haryana, it is sought to be argued that the second part of the qualification would actually cover the case. It is stressed that the State Technical Education Board is the competent body to recognize these kind of qualifications in the State of Haryana and reference to 'Haryana Government' in the first part of the qualification would be read as reference to the 'State Technical Education Board'.

In my opinion, this argument cannot prevail. There was no difficulty for the government to have prescribed even in the first part of the rule that the qualification of 10+2 with one year diploma had to be such as was recognized by the Haryana Technical Education Board. A perusal of the qualifications reveals that there are two classes of persons; those who have the qualification of 10+2, and others who have the

qualification only of Matric. Of-course, one year diploma is necessary for both but the rule making authority has intentionally provided that for those with the qualification of 10+2 with Physics and Chemistry, the diploma may be from a wider range of institutes than those who have done only Matriculation.

Learned counsel for the petitioner has relied upon a some what similar situation which arose before the Delhi High Court in W.P (C) 1629/2010, Lalit Kumar Vimal vs Secretary (Health) & others, decided on 29.11.2010, wherein the Division Bench recorded that the Institute of Public Health Hygiene Manipalpur, New Delhi was recognized by the Government of India and indeed this fact has not even been denied by the respondents herein.

In the circumstances, it has to be held that the diploma granted by the Institute of Public Health Hygiene Manipalpur, New Delhi would be deemed to be recognized by the Government of Haryana. As a matter of fact, further corroboration of this fact can be seen from the fact that in another trade i.e X-ray and Radiography, the State of Haryana had appointed another person who had a diploma from this very institute on regular basis, as per document Annexure P-15. It has been sought to be justified only on the ground that the Director ESI and the Director General Health Education and Research are different bodies.

However, it is not denied that the directions of 1975 are equally applicable to both these bodies being the general directions of the State of Haryana.

It may be mentioned here that the operation of the order, Annexure P-22, was stayed by this Court by order dated 20.4.2015, and consequently the petitioner was allowed to complete the period of contractual service whereafter she stands relieved.

In the circumstances, the impugned order, Annexure P-6, has to be set aside and the respondents have to be directed to reconsider the case of the petitioner for regularization after treating her to be duly qualified. As regards the orders, Annexures P-21 and P-22, the same have come to an end by efflux of time. Learned AAG Haryana, however, points out that the question of considering the case of the petitioner for regularization cannot be gone into at this stage since the operation of the policy of regularization has been stayed by a Division Bench of this Court in LPA No.686 of 2016.

Resultantly, the writ petition is disposed of and a conditional order is passed that in case the regularization policy of 2014 is upheld by the Division Bench, the claim of the petitioner be considered within three months thereafter. Meanwhile, in case the post which was held by the petitioner is sought to be filled up on contractual basis, the petitioner

would be first offered the appointment.

In view of what has been stated above, COCP No.1168 of 2015 has been rendered infructuous and is disposed of as such.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

January 19, 2017
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No