

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

CWP No.20605 of 2017 (O&M)
Date of decision: 04.10.2017

Rohit Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present : Mr. Sant Lal Barwala, Advocate
for the petitioner.

Mr. Puneet Jindal, Sr. Advocate with
Mr. Hitesh Pandit, Advocate and
Mr. Amandeep Singh, Advocate
for the respondents.

AMOL RATTAN SINGH, J. (Oral)

By this petition the petitioner seeks quashing of the condition in the advertisement (Annexure P-5), by which the score in the 'GATE examination 2017' alone has been fixed as the criteria of selection for appointment of Assistant Engineers in the Civil and Electrical cadres of the Haryana Power Utilities. (GATE is stated to be the acronym for the Graduate Aptitude Test in Engineering).

2. On the date that notice was issued, learned counsel for the petitioner had pointed out that even as per the certificate issued to a candidate who has passed the GATE examination, the score obtained in any particular examination is valid for a period of three years and therefore, the petitioner having appeared in the said examination in the year 2016, even

as per the certificate/score card issued to him, i.e. Annexure P-2, the score is valid upto 22.03.2019, as stated on the certificate itself.

3. Notice having been issued, it prima facie appearing to this Court that the certificate having been issued by the Ministry of Human Resources Development (MHRD), the respondent power utilities have erred in fixing the criteria restricted to the GATE examination score of the year 2017, a reply has now been filed on behalf of both the respondents.

4. Learned Senior counsel appearing for the respondents submits, on query, that the rationale for adopting the aforesaid criteria is that the written examination that was a part of the selection process earlier, was naturally conducted separately for each selection process advertised by the Power Utilities of Haryana, and the marks obtained in a particular written test of a particular selection process, alone were to count as the criteria for selection for the posts advertised.

That being so, it was decided as a matter of policy that instead of conducting its own examination, the power utility concerned would adopt a “universal criteria” of accepting the GATE score, the said examination being one conducted by 5 IITs (Indian Institutes of Technology), in rotation, each year.

Hence, thought the GATE examination replaced the examination to be conducted by the power utility concerned, as a selection criteria for appointment to the posts in question, the examination result of only the last examination conducted prior to the selection process, was decided to be kept as the sole criteria for such selection.

5. Learned Senior Counsel further submits that as a matter of fact the period of 3 years given on the certificate (score card) issued to each candidate as had appeared in the GATE, is for the purpose of obtaining admissions in centrally funded universities in the country, for post graduate and doctoral programmes/degrees.

Hence, the same criteria cannot be mandatorily applied to all selection processes also, by different selection bodies as have decided (as a matter of choice), to adopt the last GATE examination conducted as the criteria for selection to the posts advertised.

He still further submits that even an amendment has been made in the rules governing recruitment, i.e. the Punjab State Electricity Board Service of Engineering (Electrical) Regulations, 1965 (as applicable to the HVPNL), inasmuch as Regulation 10 thereof now provides the GATE examination conducted by one of the Indian Institutes of Technology every year, to be the sole criterion for filling up the posts advertised by the said corporation, i.e. the HVPNL.

6. Mr. Puneet Jindal, Sr. Advocate submits that in fact even an “advance public notice” was issued on 01.07.2016 by the respondents, a copy which has been annexed with the petition itself as Annexure P-3, wherein clause 4 (iii) specifically states that the score of GATE 2016, or any previous GATE examination, would not be valid for the recruitment process in question and it would only be the GATE score of 2017 that would be considered valid.

The same condition was incorporated in the advertisement

issued one year later on 28.07.2017, which is the advertisement in question.

7. Mr. Sant Lal Barwala, learned counsel for the petitioner, on the other hand firstly reiterates that the Ministry of Human Resource Development itself having made the score obtained in the GATE examination valid for 3 years, there is no reason for any organization to depart from that mandate and secondly, even as regards the amendment in the regulations aforesaid, it has not been specified that only the GATE examination conducted in the year of the recruitment process, or the last one before the recruitment process, would be taken as the criterion, with the amended rule also simply stating as follows:

Regulation-10 "Appointment by Direct Recruitment"

(Electrical)

"(i) The vacant posts of Assistant Engineer (Electrical) meant for direct recruitment in the Nigam would be filled up on the basis of score of GATE (Graduate Aptitude Test in Engineering) examination being conducted by one of the Indian Institutes of Technology every year subject to fulfillment of conditions as laid down in Regulation-8 of PSEB Service of Engineering (Electrical) Regulation, 1965 and amended from time to time."

(ii) The above provision will be applicable w.e.f. 01.07.2016.

Note: The recruitment already being undertaken by HVPNL (for all HPUs) through M/s PGCIL will continued to be got done through M/s PGCIL.

8. Having considered the aforesaid arguments, though there may otherwise have been something to what learned counsel for the petitioner is stating as regards the amendment made in the rules, however, specifically

because of the fact that if the respondents had decided not to adopt the GATE examination as a criteria for selection, obviously the examination conducted in each selection alone would have been the criterion for appointments to be made in the said selection process, and any score obtained by a candidate in any previous examinations conducted (in previous selection processes) by the respondents, would not have been used as the criterion for selection in a subsequent process.

That is to say, that if a person scored 90% marks in a selection process conducted in the year 2014, (in which year it was not the GATE examination but the examination conducted by the respondent themselves that was the criterion for selection), but subsequently if in the selection process for the year 2015 (again if the examination was conducted by the respondents with no reference to the GATE examination at all), the candidate obtained 85% marks, the said candidate naturally could not rely upon the higher marks obtained by him in 2014, to contend that he must be selected on the basis of those marks in the year 2015 selection process.

Therefore, the purpose of the GATE examination otherwise essentially being admission to post graduate and doctoral courses in different central universities of the country, with the score in the said examination only being adopted by various organizations as a criterion for the sake of convenience, as also so that a universally acceptable examination in the country is used as such criterion, I see absolutely no reason to interfere with the selection process.

9. This would be especially so due to the fact that the

announcement that the GATE 2017 would be the criterion for selection in the year 2017, was made by way of sufficient notice given, by the respondents, one year in advance (that the GATE examination conducted in the year 2017 alone would be used as the criterion).

10. The amended regulations not specifying that fact, in my opinion, would make no difference, as there is no specific bar contained in the regulation either, and therefore, in the face of the rationale of the submission made by learned senior counsel appearing for the respondents, with regard to the respondents conducting separate examinations otherwise for each selection process, the contention of learned counsel for the petitioner cannot be accepted.

Further, it has been stipulated in the amended regulation that *“The vacant posts of Assistant Engineer (Electrical) meant for direct recruitment in the Nigam would be filled up on the basis of score of GATE (Graduate Aptitude Test in Engineering) examination being conducted by one of the Indian Institutes of Technology every year subject to fulfillment of conditions as laid down in Regulation-8 of PSEB Service of Engineering (Electrical) Regulation, 1965 and amended from time to time.”*

Thus, it cannot be said that the restriction of the criterion for selection to the last GATE examination conducted, is contrary to Regulation 10, either.

11. Learned counsel for the petitioner has also referred to clause (ii) of the amended regulation, by which it is stated that the amendment would be effective from 01.07.2016. He therefore contends that the public

notice issued on the same date, i.e. 01.07.2016 (Annexure P-3), being on a date prior to the amendment (the amendment being effective from 15.07.2016), the notice itself is void.

The contention of the learned counsel may have been valid if the advertisement in question itself was issued prior to 15.07.2016, without the rule having been amended. However, the advertisement being dated more than one year later, i.e. 28.07.2017, simply an advance notice given on 01.07.2016, with regard to an examination to be conducted in the year 2017, would not vitiate the condition prescribed in the advertisement of the year 2017, because by that time the rules also stood amended for more than one year. Of course, had the examination been conducted prior to 15.07.2016, learned counsels' argument may have been valid.

Consequently, that contention is also not acceptable.

In view of the above, the petition stands dismissed; however, there shall be no order as to costs.

04.10.2017
parveen/ashok

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No