

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.99 of 2013

Date of Decision:-11.01.2017.

Sachin Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. S.S. Dinarpur, Advocate and
Mr. Subhash Godara, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

Ms. Komal Abrol, Advocate for
Mr. Gaurav Mohunta, Advocate for
respondent No.2.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, the petitioner has questioned the validity of the rejection of his claim for the post of Assistant Lineman on the ground that he had matriculation certificate from National Institute of Open Schooling, New Delhi. The respondents have advertised thousand posts of Assistant Lineman under various categories while prescribing a qualification as follows:-

*“E.Q. Matric with 2 years ITI in
Electrician/Wireman trade or having 2 years
Vocational Course under the trade of Lineman or
Electrician (Maintenance and Repair of Electrical and*

Domestic Appliances) conducted by Director, Industrial Training & Vocational Education, Haryana or National Apprenticeship certificate awarded under the Apprenticeship Act, 1961 from any institute recognized by the State Government,”

2.) Learned counsel for the petitioner submitted that even though the petitioner has matriculation certificate from National Institute of Open Schooling, New Delhi, petitioner had the requisite qualification pursuant to the advertisement but still petitioner's candidature has been rejected. Thus, the petitioner has presented this petition.

3.) On the other hand, learned counsel for the respondents submitted that it is true that the petitioner had Secondary School Examination certificate from National Institute of Open Schooling, New Delhi, however, those who have obtained Secondary School Examination certificate from National Institute of Open Schooling, New Delhi is not equivalent as clarified by the Director of Secondary Education, Haryana, Panchkula vide Annexure R-3/1 dated 25.1.2012 in which it is clarified that those who have passed secondary level examination from National Institute of Open Schooling, New Delhi is equivalent to matric level examination of Board of School Education, Haryana, Bhiwani subject to the condition that the candidate must have passed Hindi and English as compulsory subjects and has passed three subjects out of Mathematics, Social Studies, Science and one elective subject in secondary level examination. Therefore, the petitioner's certificate of Secondary School Examination from National Institute of Open Schooling, New Delhi do not equate to that clarification issued by the Director of Secondary Education, Haryana, Panchkula. The

2012 wherein this Court has rejected the claim of the petitioner therein with reference to clarification issued by the Director, Secondary Education, Haryana, Panchkula dated 25.1.2012.

4.) Heard learned counsel for the parties.

5.) Short question for consideration is whether the petitioner's name is required to be considered for the purpose of selection and appointment to the post of Assistant Lineman with reference to Secondary School Examination certificate issued by the National Institute of Open Schooling, New Delhi or not. Admittedly, the prescribed qualification for the post of Assistant Lineman is matric with two years ITI in Electrician/Wireman trade etc. The word 'Matric' has not been expanded or elaborated which are the subjects that are required to be equated to that of any matriculation certificate as clarified by the Director of Secondary Education, Haryana vide Annexure R-3/1 dated 25.1.2012. Merely issuance of clarification that does not amend the Rules or advertisement. In other words, clarification issued by an officer may not override the Rules, when the Rule is very specific that the qualification for the post of Assistant Lineman is matric with other qualifications. Therefore, irrespective of matric or Secondary School Examination certificate the respondents/selecting and appointing authority are required to accept them and they cannot go on interpreting the matric qualification by issuing clarification one or the other. Unless and until Rule is amended appropriately elaborating the matric qualification with subjects etc. The petitioner's claim cannot be discarded. Hence, the rejection of the petitioner's claim on the score that he has obtained Secondary School

Delhi and it is contrary to clarification issued by the Director of Secondary Education, Haryana dated 25.1.2012 will not take away the right of the petitioner as he is having the Secondary School Examination certificate qualification which has been treated as equated to matric and further examination of passing of subjects are outside the scope as prescribed by the Rules of Rule. The aforesaid point was not fell for consideration in the cited decisions. Hence, the cited decisions are distinguishable. Accordingly, rejection of the petitioner's claim for the post of Assistant Lineman is set aside. The respondents/selecting and appointing authority are directed to reconsider the petitioner's claim within a period of four months, while taking into consideration the Secondary School Examination certificate issued from the National Institute of Open Schooling, New Delhi, since he fulfills the qualification prescribed for the post of Assistant Lineman with reference to the Rules of Recruitment read with advertisement.

6.) Petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

January 11, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.