

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.5202 of 2017.

Date of Decision: March 15, 2017

Post Graduate Institute of Medical Education and Research, Chandigarh
.....Petitioner

versus

Gurvinder Singh and othersRespondents

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

Present: Mr.P.K.Khindria, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

Post Graduate Institute of Medical Education and Research, Chandigarh (for short, 'the PGIMER') assails the order dated 09.12.2016 whereby the Central Administrative Tribunal, Chandigarh Bench has held the 1st respondent eligible for the post of Store Keeper.

[2] The issue which fell for consideration of the learned Tribunal was whether three years' experience in handling store preferably medical store in a Government/public/private sector was required to be gained after acquiring the essential qualification or such an experience earned before acquiring the essential qualification was also sufficient to become eligible for the post of Store Keeper?

[3] The essential qualification prescribed for the post of Store Keeper by the petitioner-Institute is as follows:-

“Essential:- (i) Bachelors degree in Economic/Commerce/Statistics.

(ii) Postgraduate degree/diploma in Material Management from a recognized University/Institute or equivalent.

Desirable:- Experience in handling stores and record

keeping in a store preferably medical or concern of a reputé in public or private sector.

Or

- (i) Degree of a recognized University or equivalent.
- (ii) Post graduate degree/diploma in Material Management of a recognized University/Institute.
- (iii) Three years experience in handling stores preferably medical stores in Government/Public/Private Sector....”

[4] It may be seen that the Rule nowhere explicitly provides that the three years' experience in handling store preferably medical stores in Government/Public/Private Sector must have been gained after the acquisition of academic qualification of Post Graduate degree/diploma in Material Management.

[5] The 1st respondent applied in response to the advertisement issued by the petitioner-Institute. He qualified the written test but at the time when candidates were short-listed for viva-voce, the name of 1st respondent was placed amongst non-eligible candidate with the objection that his three years' experience was not post the essential qualifications.

[6] The Tribunal has turned down the objection raised by the petitioner-Institute on the strength of a Division Bench decision of this Court in LPA No.1988 of 2011 (State of Punjab and others versus Priya Mahajan and others), decided on 16.01.2013 laying down as follows:-

“... We have heard learned counsel for the parties, perused the entire record and are of the considered opinion that there is no error in the order of the learned Single Judge because the statutory rules do not provide for experience of one year after acquiring the minimum educational qualification and this condition has been prescribed only by way of a note in the advertisement but the fact remains that no new condition can be imposed in the advertisement

in the presence of statutory rules framed under the proviso to Article 309 of the Constitution of India which would have supremacy as the Note-9 appended to the Advertisement has no sanction of law.....”

[7] The Tribunal has also relied upon the decision of Hon'ble Supreme Court on the same point, titled as Subhash versus State of Maharashtra, 1995 Suppl.(3) SCC 332, wherein also an identical issue was answered in favour of a candidate like respondent No.1. Some more decisions to this effect has also been relied upon by the Tribunal.

[8] We have heard learned counsel for the petitioner and gone through the record.

[9] No contrary case-law has been cited on behalf of the petitioner. The decisions cited above, hold the field and unequivocally lay down that unless it is so expressly provided under the Rules, the experience gained before or after acquiring the academic qualification would be a valid experience for the purpose of determining the eligibility.

[10] No case to interfere with the impugned order is made out.

[11] Dismissed.

[SURYA KANT]
JUDGE

March 16, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No