

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

I.

L.P.A. No.1289 of 2015 (O&M)

Sonal

... Appellant

Versus

Amar Jeet and others

... Respondents

II.

L.P.A. No.1530 of 2015 (O&M)

Chaudhary Charan Singh Haryana Agricultural University, Hisar

... Appellant

Versus

Amar Jeet and another

... Respondents

Decided on : 31.07.2017

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI**

Present : Mr. Girish Agnihotri, Sr. Advocate, with
Mr. Vijay Pal, Advocate,
for the appellant in LPA-1289-2015.

Mr. Aman Pal, Advocate,
for the appellant in LPA-1530-2015.
for respondents No.3 to 5 in LPA-1289-2015.

Mr. S.S.Duhan, Advocate,
for respondent No.1.

MAHESH GROVER, J. (Oral)

This order shall dispose of the aforesaid Letters Patent

Appeals as common questions of law and facts are involved therein.

The facts are taken from LPA No.1289 of 2015 for convenience.

The appellant is in appeal against the judgment of the learned Single Judge dated 18.5.2015. The appellant was selected to the post of Computer Programmer in DSEM (General) category. The essential qualifications and conditions in the advertisement is extracted hereinbelow : -

- “Essential : - i) B.Sc with Computer and Math or Stat/BCA/MCA,
- ii) Knowledge of computer language like Pascal, Fortran, Cobol/C,
- iii) Operation knowledge of computer UNIX, DOS, BDMS, Office-97 SYBASE, C++ and other softwares.
- iv) One year experience on computer operation.
- v) Knowledge of Hindi or Sanskrit upto Matric standard.

Desirable : i) Diploma in Computer Operation and maintenance

- ii) Knowledge of working on Internet/E-mail.”

The said advertisement also contained special instructions, relevant portion of which is quoted below : -

“1. The applicant must possess prescribed qualifications and experience on the last date of receipt of applications. The prescribed essential qualification does not entitle a candidate to be called for interview...”

There were general instructions also, relevant portion of

instruction No.16 is quoted below : -

“ Candidate applying for a post must ensure that they fulfill all the eligibility conditions on the last date of application.....”

One Amar Jeet-respondent No.1 and another who were in the wait list challenged the selection on the ground that the experience of each incumbent had to be seen on the last date of receipt of the application whereas the selecting authorities had considered the experience as applicable on the date of interview.

The University is on record to state that this was applied across the board and no prejudice was thus caused to any of the participants.

Learned Single Judge accepted the plea, applying the well settled propositions that the qualifications in entirety has to be seen on the date of application and any eligibility acquired subsequently, has to be excluded.

It is not in dispute that the appellant was not eligible in terms of the conditions prescribed but it is only because of his experience up to the date of interview that was considered, on account of which she stole a march over the writ petitioners.

Writ petitioner No.2-Naveen has given up his challenge leaving only writ petitioner-Amar Jeet (respondent No.1) in the fray. On 26.9.2016, this Court had passed the following order : -

“ Heard learned counsel for the parties.

Let learned counsel for respondent Nos.3 to 5-

University have instructions whether one of the available vacancies can be converted and reserved for Ex-serviceman/DESM (General) Category and in future as and when the vacancy for the ESM/DESM arises the same can be included into open category. After such conversion, the claim of respondent No.1 can also be considered for appointment prospectively with notional benefits, he being at No.1 in the waiting list of DESM (General) Category.

Original records seen and returned back.

List on 25.10.2016.

A photocopy of this order be placed on the record of other connected case(s).”

Learned counsel representing the University concedes that there are two vacant posts available in the general category. We may notice that the appellant has been in service since 2012 and has continued under the orders of the Court as well. There would be no reason to differ with the findings recorded by the learned Single Judge which are in consonance with the propositions of law but noticing the predicament that appellant has been placed, of being in service since 2012 and after a lapse of 5 years, it would unjust to see her out of service particularly when posts are lying vacant.

The University in turn states that they would have no objection to permit the appellant to continue considering her work and conduct but are unable to grant any concession to that effect. Be that as it may, we are of the opinion that since two posts are available and

claim of Amar Jeet-respondent No.1 does not stand to suffer in any way in view of the availability of posts, we direct that Amar Jeet-respondent No.1 be adjusted against the vacant posts. However, we make it clear that this order shall not be construed to be a precedent as the orders in this case have been passed in the given set of facts and circumstances more particularly when the entire selection has not been set aside by the learned Single Judge where relaxed standards were applied uniformly to all participants.

Accordingly, this petition along with connected one stands disposed of.

(MAHESH GROVER)
JUDGE

(RAJ SHEKHAR ATTRI)
JUDGE

July 31, 2017
Paritosh Kumar

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