

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

CWP No. 24557 of 2011 (O&M)

Date of Decision: 24.01.2018.

Inderjit Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. M.L. Saggar, Sr. Advocate with
Ms. Veenu Garg, Advocate,
for the petitioner.

Ms. Sudeepti Sharma, Addl. AG, Punjab.

JITENDRA CHAUHAN.J.(ORAL)

This civil writ petition has been filed under Articles 226 and 227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the condition of passing of Biology subject in 10+2 examination as a pre-requisite for the candidates who have been granted diploma being Non-Medical group and for staying the declaration of result of posts of Ophthalmic Officers.

The controversy in issue stands settled in CWP No.7116 of 1999 in paragraph NO.8 of the judgment dated 20.05.2016 which reads as under:-

“All that is argued in these cases is that the petitioners were interviewed by the Departmental Selection Committee in 1994; they were selected for the post and had been continuing in service since September 1994 and were confirmed in August 1998, therefore, the question regarding non-passing of Biology subject in 10+2 has receded in the background and thus cannot be raised at this stage. It is not disputed by the petitioners that they have not read the subject of Biology in their 10+2 examination. Moreover, another submission

advanced is that when the petitioners applied for admission in the Diploma in Para Medical Ophthalmic Assistant course their candidature should have been rejected at the initial stage before the start of the course and this is another reason why they should be reappointed because non-passing of the Biology subject at this stage cannot be used against them while armed with experience to man the post. This argument may seem attractive but it flies in the face of the doctrine of estoppel inasmuch as there can be no estoppel against the statute and the prescriptions contained therein which are mandatory pre-conditions which alone could add legal colour to the appointments. The rules of service which prescribe qualifications for the post are statutory in nature and the terms and conditions of the advertisement relating to essential qualifications are sacrosanct and have to be adhered to and hence cannot be departed from without doing violence to the rules. The essential qualification prescribed for the post is group neutral and cannot be relaxed as that would dilute merit and violate the law unless permitted by specific rule, which is not the case stated.”

Admittedly, the controversy raised in the present writ petition stands adjudicated upon by a Coordinate Bench in CWP No.7116 of 1999 titled as “Inderjit Singh vs. State of Punjab and others” decided on 20.05.2016.

Consequently, in view of the judgment rendered in CWP No.7116 of 1999, the present petition deserves to be dismissed.

Dismissed.

24.01.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No