

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

1. CWP No. 22362 of 2014

Raj Kumar **....Petitioner**
versus

State of Haryana and others **..Respondents**

2. CWP No. 5639 of 2015

Pawan Kumar **....Petitioner**
versus

State of Haryana and others **..Respondents**

Date of Decision:05.07.2018

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Lalit Rishi, Advocate
for the petitioner in CWP No. 22362-2014

Mr. Vikas Mor, Advocate
for the petitioner in CWP No. 5639-2015

Mr. Hitesh Pandit, Addl. A.G. Haryana

Mr. Kulvir Narwal, Advocate
for respondent No. 4 in CWP No. 22362-2014

Mr. Aman Pal, Advocate
for respondent No. 3 in CWP No. 22362-2014

Mr. A.P.S. Bhinder, Advocate
for respondent No. 5 in CWP No. 22362-2014

Mr. Rakesh Sobti, Advocate
for respondent No. 4 in CWP No. 5639-2015

Mr. Ramesh Sharma, Advocate
for respondent No. 5 in CWP No. 5639-2015

RITU BAHRI, J.

This order shall dispose of the two petitions i.e C.W.P No. 22362

of 2014 and C.W.P No. 5639 of 2015 as common question of facts are involved in both the petitions.

In CWP No. 22362-2014, petitioner-Raj Kumar is seeking quashing of selection and appointment of respondent No. 3 and 4 on the post of Moulder Instructor, in pursuance to advertisement No. 01 of 2011 dated 19.03.2011 (Annexure P-1) whereas in CWP No. 5639-2015, petitioner-Pawan Kumar is seeking quashing of selection and appointment of respondent No. 4 on the post of Moulder Instructor, in pursuance to advertisement No. 01 of 2011 dated 19.03.2011

Brief facts of the case are respondent No. 2-Haryana Staff Selection Commission issued advertisement No. 01 of 2011 dated 19.03.2011 (Annexure P-1) wherein several posts including 6 posts of Moulder Instructors were advertised. The break of the posts reads as under:-

<i>General</i>	<i>3</i>
<i>S.C</i>	<i>1</i>
<i>B.C</i>	<i>1</i>
<i>ESM Gen.</i>	<i>1</i>

The qualification for the post of Moulder Instructor was prescribed as under:-

- “(i) Matriculation/Sr. Secondary/10th pass under +2 scheme.*
- (ii) National Trade Certificate and Craft Instructors Training Courses in concerned Trade.*
- (iii) 05 years practical/teaching experience including the period of certificates and training courses mentioned at (ii) above from a reputed Industrial Concern of recognized institutions.*
- (iv) Hindi/Sanskrit up to Matric Standard.”*

The age limit was prescribed to be between 17 to 40 years and

the pay scale corresponding to the above post was 9300-34800+3200 Grade Pay.

Since petitioner-Ram Kumar and Pawan Kumar have the requisite qualification, they applied for the above said post along with other candidates. No written test was conducted by the Commission and the candidates were called for interview directly. On 09.07.2013 (Annexure P-3), the result of the selection was declared by respondent No. 2. The name of the petitioner Ram Kumar was at Sr. No. 1 in the waiting list of General Category and the the name of petitioner Pawan Kumar was also at Sr.No. 1 in the list of S.C category.

Aggrieved against the result, the petitioner-Raj Kumar approached respondent No.2 for seeking the selection criteria, but respondent No. 2-Commission refused to furnish the required information on the ground that the same has no relation with any public activity or interest. Aggrieved against the same, the petitioner Raj Kumar and Pawan Kumar applied for the above information under RTI Act but respondent No. 2 refused to furnish the information on the ground that the same has no relation with any public activity or interest. Aggrieved against the above said information, they filed an appeal before the 1st Appellate Authority-cum Secretary of respondent No. 2. They were called for personal hearing and during the course of hearing, they were supplied the criteria, which reads as under”-

Matric/+2 = 15 marks (0.15 of the percentage of marks obtained which is more beneficial to the candidate

***Essential Qualification = 30 marks
(NTC and CIT course is concerned trade)
(0.15 of percentage of marks obtained each in NIC and CIT)***

<i>Experience</i>	=	<i>05 marks (0.5 for completed a period of six over and above 05 years experience as prescribed)</i>
<i>Viva Voice</i>	=	<i>25 marks</i>
<i>Total</i>	=	<i>75 marks</i>

In addition to the above information, the marks obtained by the petitioners were also disclosed by respondent No. 2 in the above mentioned appeal. Petitioner Raj Kumar was supplied information vide order dated 05.11.2013 (Annexure P-4).

Aggrieved against the decision of Ist Appellate Authorities, the petitioners preferred 2nd appeal. Thereafter, respondent No. 2 supplied the information which was supplied earlier and the application of the petitioner- Raj Kumar was forwarded under Section 6 (3) of RTI Act to SPIO to supply the information. A chart on the basis of the information received by the petitioner reads as under:-

<i>Sr.No.</i>	<i>Name</i>	<i>Roll No.</i>	<i>Marks for Edu Qual</i>	<i>Viva Voice</i>	<i>Total</i>
1	Sunil Kumar	7	31.75	20	51.75
2	Mahesh Chander	26	31.8	20	51.8
3	Shamsher	33	32.27	19	51.27
4	Raj Kumar	17	34.03	13	47.03

Vide letter dated 21.03.2014 (Annexure P-7 colly), SPIO supplied the copies of documents asked for by the petitioner. As per the above information, Mahesh Chander sought appointment on the basis of experience certificate dated 27.11.2004 issued by Saboo Ispat Pvt. Ltd,

been shown to have worked w.e.f 07.01.2012 to 25.11.2004.

Petitioner-Raj Kumar being doubtful of the experience certificate of Mahesh Chander applied under RTI Act vide application dated 29.04.2014 to the General Manager, District Industrial Centre, Sirmour, Antanhan (H.P) seeking specific information regarding the number of employees served in M/s Saboo Ispat Pvt. Ltd w.e.f 01.01.2002 to 02.12.2004 along with name and addresses of the employees.

In reply to the above application, the Member Secretary, Department of Industries, Kal-Amb, District Sirmour vide letter dated 26.05.2014 supplied list of employees who served in the above company. In this list, name of respondent No. 3-Mahesh Chander was not mentioned, which shows that he was appointed on the basis of fake experience certificate.

With regard to respondent No. 4-Shamsher, he has submitted experience certificate issued by M/s Amit Agriculture Industry dated 01.04.2011 for seeking appointment to the post in question. But in this experience certificate, salary was not mentioned. As per advertisement, only those experience certificates was to be considered which were issued by a registered institutions wherein the details of the remuneration given to the employees is mentioned.

Thereafter, the petitioner-Raj Kumar vide letter dated 23.04.2014 (Annexure P-10) sought information under RTI Act from the office of General Manager, District Industrial Centre, Panipat as to whether M/s Amit Agriculture Industry is registered or not.

In reply to the above said application, the State Information,

District Industrial Centre, Panipat vide letter dated 16.05.2014 (Annexure P-11) replied that no industry in the name of M/s Amit Agriculture Industry finds mentioned in the record.

Further petitioner-Raj Kumar vide application dated 24.04.2014 sought further information from the office of Industrial Department who in-turn vide letter dated 19.06.2014 informed that the experience certificate should have been issued by registered institutions and must contain details of remuneration given to the employee.

Learned counsel for the petitioner-Raj Kumar is seeking quashing of selection and appointment of respondent No. 3 and 4 on the ground that the experience certificate on the basis of which they got appointment letters were fake, as per the information received by the petitioner mentioned above.

Learned counsel for the petitioner-Pawan Kumar is also seeking quashing of selection and appointment of respondent No. 4-Jai Kumar, as the experience certificate of Jai Kumar was of Auto Care Industry, which is not registered and the information with regard to the same of the registration been supplied by the department as per Annexure P-7 and P-8.

On the other hand, learned counsel for respondent-State while referring to the reply filed states that the private respondents have rightly been appointed after following due procedure.

Heard learned counsel for the parties.

The question for consideration before this Court would be firstly that whether the experience certificates on the basis of which private respondents were appointed are fake and whether it is a condition in the

advertisement that the company from where the private respondents got experience certificate should be a registered Company.

With regard to the experience certificate, this Court called for the official record of the department wherein as per letter dated 09.02.2015 issued by the Saboo Ispat Pvt. Ltd, to The Principal, Government Industrial Training Institute, Karnal Haryana, it has been stated that Mahesh Chander was associated with Saboo Pvt Ltd between 07.02.2002 to 25.11.2004 on the basis of exigency of work. When he left work, he was drawing a sum of Rs.5450/- in gross as monthly wages.

In the appointment of respondent No. 4, the only objection raised by learned counsel for the petitioner is that the company from where the experience certificate was made, was not a registered one. Further in the letter dated 24.01.2015 issued by Amit Agriculture Industries, respondent No. 4 worked with the Company w.e.f 01.04.2006 to 31.03.2011 and was drawing a sum of Rs.3500/- per month.

Reference at this stage can be made to the reply filed by respondent No. 4, wherein reference has been made to Annexure R-4/1 to show that M/s Amit Agriculture Industry is registered with Authority under Haryana Value Added Tax vide TIN No. 06302613552 and M/s Amit Agriculture Industrial is also registered dealer under Central Sales Tax Act, 1956 and the certificate is Annexure R-4/2

With regard to the appointment of Jai Kumar, reference at this stage can be made to the reply filed by the State in CWP No. 5639-2015 wherein it has been mentioned that after receiving the notice of this writ petition, the respondents verified the documents, testimonials and experience

certificate of respondent No. 4 vide memo dated 01.05.2015 (Annexure R-II) through Principal, ITI, Rohtak, who verified all the documents of respondent No. 4 including the experience certificate and as per experience certificate, Jai Kumar was working in the Institute as Foundry Instructor since August 13, 2008 to till date. His monthly salary was Rs.6050/-.

Now it is not in dispute that experience certificate of all the private respondents are not fake and have been given by their respective companies.

Reference at this stage can be made to the advertisement to see whether there is any condition in the advertisement that the Companies from where the private respondents got experience certificate, should be a registered one.

In the advertisement, it has been written that the candidate should be matriculate/Senior Secondary/Xth pass under + 2 scheme. He should have National Trade Certificate and Craft Instructors Training Course in concerned trade. He should have five years practical/teaching experience including the period of certificate and training course method at (ii) above from a reputed Industrial Concern of recognized Institution. He should have Hindi/Sanskrit up to Matric Standard.

A bare perusal of the advertisement shows that the experience certificate should be from a reputed concern of recognized Institution and it has no where written that the company should be registered one. Thus, on this hypo technical ground that the Company is not a registered company, the writ petitions cannot be allowed

In view of the discussions made above, the writ petitions are

dismissed being devoid of any merit and no ground is made out to interfere in the selection and appointment of private respondents, who were appointed to the post of Moulder Instructor, pursuant to advertisement No. 01 of 2011 dated 19.03.2011.

(RITU BAHRI)
JUDGE

05.07.2018
G Arora

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>