

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

CWP No.27297 of 2013 (O&M)

Date of decision: 08.10.2018

Lakhwinder Singh

...Petitioner(s)

Versus

Punjab State Power Corporation Ltd. and another

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Pushpinder Kaushal, Advocate for the petitioner(s).

Mr. Bhupesh Dogra, Advocate for

Mr. Amit Aggarwal, Advocate for the respondents.

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioner seeks quashing of the advertisement dated 10.05.2012 (Annexure P-1) to the extent of prescribing the qualification i.e. full time regular BE/B.tech/B.Sc. Engineering in Electrical with a minimum of 60% marks from an institution of Engineers, however, the candidates who had obtained degree through District Education Programme/DEC were not eligible to apply for the post of Assistant Engineer which is against the statutory rules, namely, Punjab State Electricity Board Service of Engineers (Electrical) Recruitment Regulations, 1965 (for short 'the Regulations')

It is contended that the advertisement in question is contrary to the statutory provisions of the Regulations. The petitioner who has been serving as Technical Subordinate is eligible to be appointed as

Assistant Engineer, however, he has been deprived of the same as reflected in the advertisement. In support of his assertions, learned counsel refers to order dated 23.09.2013 (Annexure P-2) passed in CWP-23677-2011 titled as **Kuldeep Kumar and others Vs. Punjab State Power Corporation Ltd., and another** to contend similar advertisement having same qualification as in the advertisement in question, had been quashed.

On the other hand, learned counsel appearing on behalf of the respondents submits that the petitioner has not cleared the examination, therefore, his claim was not considered. Moreover, the petitioner has not challenged the selection.

Heard.

The petitioner has laid challenge to the advertisement to the extent of prescribing the qualification for the post of Assistant Engineer on the ground that the same is against the statutory provisions of the Regulations. It is to be noticed that the petitioner has also appeared in the selection process wherein he did not clear the examination; the minimum qualifying marks were 50%, however, the petitioner obtained 28.25% out of 100. The Rules and Regulations with regard to qualification and recruitment were amended by the Board of Directors on 11.11.2011 whereby the circular in respect of amendment was also issued on 01.12.2011. Once the petitioner in pursuance of the advertisement in question appeared and has not qualified in the selection process, therefore, the petitioner cannot assail the advertisement. Moreover, the

selection has not been challenged by the petitioner. PSPCL is a government company and autonomous body being registered under The Companies Act. The Board of Directors is competent to take any decision including to amend the Rules and Regulations with regard to qualification and recruitment. In CWP-23723-2011 titled as **Rakesh Kumar Sharma & Ors. Vs. PSPCL & Ors**, decided on 14.11.2014, this Court held as under:-

“Thus, as per the provisions of the Transfer Scheme, Tripartite Agreement and the Act, 2003, the respondent-Corporations are government companies and the service regulations of the employees thereof can be framed /amended by the decisions of their Board of Directors.

The Act, 1948 having been repealed by the Act, 2003, the reliance by learned counsel for the petitioners on Section 79 of the 1948 Act is misplaced. So, the contention of the Ld. Counsel that the regulations can be amended only through a notification under Section 79 of the 1948 Act cannot be accepted. It has to be held that the respondents No.1 and 2 are government companies and can regulate and amend the existing service regulations through resolutions of their Board of Directors.”

The ratio of law laid down in **Kuldeep Kumar's** case (supra) is distinguishable on facts of the present case as in the reported case, advertisement CRA-272/11 was issued on 16.11.2011 and the circular in respect of amendment was issued thereafter on 01.12.2011 but in the present case, educational qualifications stood amended on 11.11.2011 and the impugned advertisement had been issued thereafter on 10.05.2012.

In view of the above, finding no merit in the present petition, the same is dismissed.

08.10.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes	No
Yes	No