

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

**CWP No.503 of 2018(O&M)
Date of Decision : 12.01.2018**

Kuldeep Kumar and others

... Petitioners

VERSUS

State of Haryana and another

.... Respondents

**CORAM : HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE B.S.WALIA**

Present: Mr. Ravinder Singh Dhull and Mr. Sangram Singh,
Advocate for the petitioners.

B.S.WALIA, J.,

1. This order will dispose of CWP Nos. 485 & 503 of 2018 as challenge in both the writ petitions is identical. Facts of the case are being taken from CWP No.503 of 2018.

2. Main grievance of the petitioners is that the Haryana Transport Department (Group-C), Haryana Roadways Service Rules, 1995 (hereinafter referred to as the Rules) to the extent it mandates 5 years experience in Motor Road Transport Government or Semi-Government Department or Public Undertaking to the exclusion of experience acquired in other organizations is arbitrary and ultra vires Article 14 and 16 of the Constitution of India.

3. Prayer is for quashing the impugned rule to the extent it mandates experience only in Government / Semi Government Department / Public Undertaking to the exclusion of experience acquired in other organizations and for directions to respondent No. 2 to call the petitioners for interview.

4. Claiming themselves to be eligible and duly qualified for the post of Station Supervisor as advertised by respondent No.2, petitioners applied for the same and were issued roll numbers. Petitioners appeared in the written test and qualified the same as per result dated 26.04.2017 (Annexure P-2). Thereafter, they were required to submit documents for verification. After declaration of result on 26.04.2017 (Annexure P-2), all candidates were called for interview vide notice dated 30.12.2017 (Annexure P-3) which was scheduled for 13.01.2018 in the office of the Commission. However, the petitioners were not called for interview. On inquiry it was learnt by the petitioners that their names had been rejected on the ground that they did not fulfill the eligibility stipulated for the post of Station Supervisor.

5. Academic qualifications and experience for direct recruitment to various posts in Haryana Transport Department is stipulated in Appendix-B Rule-7 to Haryana Transport Department (Group-C), Haryana Roadways Service Rules, 1995. The same is reproduced as under :-

OPERATIONAL STAFF

<i>Sr. No.</i>	<i>Designation of posts.</i>	<i>Academic Qualification and experience, if any, for direct recruitment</i>	<i>Academic qualification and experience, if any for appointment other than by direct recruitment</i>	<i>Remarks if any</i>
1.	Station Supervisor	(i) Graduate (ii) Minimum five year experience in Motor Road Transport Government, or Semi Government Departments or public undertakings	(i) Matriculation with Hindi (ii) Five years experience as a Chief Inspector, Welfare Inspector in Haryana Roadways	

2.	Welfare Officer	(i) Graduate (ii) Minimum five years experience in Motor Road Transport in Government, Semi-Government Department or public undertaking	(i) Matriculation with Hindi (ii) Five years experience as a Chief Inspector, Welfare Inspector in Haryana Roadways	
3.	Chief Inspector	i) Graduate (ii) Minimum three years experience in Motor Road Transport in a Government, Semi-Government Department or public undertaking	(i) Matriculation with Hindi (ii) Minimum five years experience as Inspector in Haryana Roadways	
4.	Welfare Inspector	(i) Graduate (ii) Minimum three years experience in Motor Road Transport in Semi-Government Department or public undertaking	(i) Matriculation with Hindi (ii) Five years experience as a Inspector in Haryana Roadways	
5.	Yard Master		(i) Middle with Hindi (ii) Seven years experience of heavy Transport Vehicle Driver	
6.	Inspector	(i) Graduate (ii) At least two years experience in Motor Road Transport in a Government or Semi Government or public undertakings.	i) Matriculation with Hindi. ii) Five years experience as Sub Inspector in Haryana Roadways	
7.	Sub Inspector	(i) Graduate (ii) One year experience in Motor Road Transport in a Government or Semi Government or public undertakings.	i) Matriculation with Hindi. ii) Five years experience as Conductor or Booking Clerk in Haryana Roadways.	
8.	Light Car Driver	(i) Middle with Hindi (ii) Holding Driver License of light vehicle with three years experience of light vehicle driving.	i) Middle with Hindi ii) Holding Driver License of light vehicle with three years experience of light vehicle driving	

9.	Heavy Vehicle Driver	(i) Middle with Hindi (ii) Holding driving License of Heavy Transport Vehicle with three years experience of driving heavy vehicle. OR Ten years experience of driving vehicle in Military	i) Middle with Hindi ii) Holding driving License of Heavy Transport Vehicle with three years experience of driving heavy vehicle. OR Ten years experience of driving vehicle in Military.	
10.	Booking Clerk	(i) Matriculation with Hindi. (ii) Should hold Conductor's License.	i) Matriculation with Hindi. ii) Should hold Conductor's License	
11.	Conductor	(i) Matriculation with Hindi. (ii) Should hold Conductor's License.	i) Matriculation with Hindi. ii) Should hold Conductor's License.	

6. A perusal of the eligibility conditions stipulated in the criteria for appointment to the post of Station Supervisor by direct recruitment reveals that a person must have passed matriculation with Hindi and have experience of 5 years in Motor Road Transport Government, or Semi Government Departments or public undertakings. Likewise for the post of Welfare Officer, Chief Inspector, Welfare Inspector, Inspector as well as Sub Inspector source of experience requirement is on the same lines as in the case of Station Supervisor in case of direct recruitment. It is only in the case of Light Car Driver, Heavy Vehicle Driver, Booking Clerk, Conductor i.e. posts on the lowest rung in the hierarchy at the entry point in service to the operational staff in the Haryana Transport Department that no experience of Government, Semi-Government or Public Undertaking is required.

7. Learned counsel contended that the nature of duties performed by a Station Supervisor does not have any relevance with the requirement of

experience in Motor Road Transport Government, or Semi Government Departments or public undertakings. Learned counsel contended that as per law, equals are required to be treated equally and there was no rationale for fixing eligibility as stipulated. It is contended that while in the case of recruitment to the posts of drivers, conductors etc, there is no condition requiring experience in government, semi government department or public undertaking, therefore, there is no reason as to why this requirement has been stipulated in the case of Station Supervisor. Petitioners are aggrieved of rejection of their experience in Cooperative Bus Societies despite their performing same nature of duties as in the case of government, semi government departments. In the aforementioned background, it is contended that stipulation of 5 years experience from Government / Govt. Organizations / bodies only to the exclusion of experience from Cooperative Societies is bad and liable to be set aside as there is no basis for the exclusion.

8. We have considered the submissions of learned counsel for the petitioners and regret inability to accept the same. It is settled law that it is the prerogative of the employer to stipulate qualification or eligibility criteria for a particular post. The stipulation with regard to qualification and eligibility is immune from judicial review except where it can be shown that the qualifications or the eligibility conditions are having no nexus with the nature of the duties of the posts or the object sought to be achieved.

9. As has been noticed above, operational staff consists of 11 posts in Group C with the Station Supervisor at the top of the hierarchy. In all the posts in the operational staff by direct recruitment, requirement of experience is of Motor Road Transport in Government or Semi-Government

Departments or Public Undertaking. It is only in the case of Light Car Driver, Heavy Vehicle Driver, Booking Clerk, Conductor that the requirement of experience in Motor Road Transport Government, Semi-Government Department or Public Undertaking is not specified. There is a reason for the same i.e. because the posts of Light Car Driver, Heavy Vehicle Driver, Booking Clerk, Conductor are at the entry point into government service in the Transport Department while the post of Station Supervisor is at the top of the hierarchy amongst operational staff in Group-C category of posts. Apparently, there is a rationale in not stipulating requirement of experience in government, semi-government or public undertaking at the entry point. However, for the posts at the top of the hierarchy of operational staff in Group-C, in the Transport Department, the requirement of experience in government, semi-government or public undertaking is there. The hierarchy of posts, workload quantity, nature of duties and responsibilities, nature of operations in the private sector and government sector are different and not comparable. In the case of private sector, considerations may be purely commercial, whereas in a government / semi-government department or public undertaking, thrust may not be on the commercial aspect and would be more towards meeting the requirement of the public at large as a service to the public. Therefore, it is open to the Transport Department of the government to stipulate the source of experience in the Rules.

10. There is another aspect of the matter. While in case of experience acquired from Motor Road Transport Government, or Semi Government Departments or public undertakings there would not be any issue with regard to the authenticity of the experience acquired nor any

difficulty in verifying the same, however, the same may not be possible in case of experience from organizations in the private sector due to non maintenance of record as well as issues pertaining to authenticity of the same. Somewhat similar point was in issue in **Narpal Singh vs. State of Haryana and others, 2014(8) RCR (Civil) 428** wherein challenge was to the stipulation of experience from Haryana Forest Department / Government Nursery of Horticulture Department on the ground that there was no such stipulation in the Haryana Forest Subordinate (Group D), Service Rules, 1998 which merely stipulated qualification for the post of Mali as middle pass with knowledge of Hindi and three years' experience as a Mali in a Nursery.

Stand of the respondents in the aforesaid case was that the requirement for experience from Government Nursery was prescribed as it was not possible to verify experience obtained by a Mali from a private Nursery as no records were generally maintained by such private Nurseries, whereas in the case of Government Department or Government Nurseries, record of experience was properly maintained, therefore, such experience certificate could be verified.

Learned Writ Court while taking note of the stand of the respondents held that qualification of experience as per Rules had not been diluted in any manner besides justifiable reasons had been given for requirement of experience certificate from the Haryana Forest Department / Government Nursery of Horticulture Department, Haryana. Accordingly, the writ petition was dismissed. LPA No.1258 of 2012 filed against the aforementioned decision was also dismissed vide order dated 14.05.2013 by holding the view of the learned Writ Court to be just and fair as also that the

competent authority was well within its right to stipulate the nature of experience required for a particular post.

11. In the light of the position as noted above there is no merit in the writ petition. Accordingly, the same is dismissed in limine. No order as to costs.

(RAJESH BINDAL)
JUDGE

(B.S.WALIA)
JUDGE

12.01.2018

Rajneesh/ps

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No