

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

CWP No.13 of 2017 (O&M)
Date of decision: June 06, 2019

R.K. Harshvir Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Gurmeet Singh, Advocate for the petitioner(s).
Ms. Anu Chatrath, Addl. A.G. Punjab.
Mr. H.S. Saini, Advocate for respondents
No.20, 21, 31, 43, 60 and 74.

Rajan Gupta, J.(oral)

This order shall dispose of a bunch of 26 writ petitions i.e. CWP Nos.13, 420, 455, 2238, 7334, 12306 of 2017, 365, 405, 1929, 3336, 12, 752, 2283, 4155, 4237, 2846, 2968, 810, 4958, 5116, 4559, 8376, 10954, 10956, 11274 of 2017 and 8340 of 2017, as common questions of law arise in all these cases. For brevity, facts are being taken from CWP No.13 of 2017.

The respondent department issued an advertisement for recruitment to 725 posts of Intelligence Assistant (Male & Female) in the rank of constable in the Intelligence Wing of Punjab Police, vide advertisement dated 01.09.2016. Out of these 725 posts advertised, 20% were reserved for scheduled caste and scheduled tribe categories. On 31.08.2016, the department issued a standing order No.7 of 2016, in which it prescribed physical standards and the selection process. Petitioner possessed qualification of B. Tech (Graduation) alongwith Fundamental of Computer Programming and Information Technology as one of the subjects

in the curriculum. Petitioner being eligible for the post of Intelligence Assistant in the category of SC (R&O), got a call for physical test. A provisional admit card was also issued. However, on 24.10.2016 the respondent department uploaded a list of eligible candidates on the website. Petitioner's claim is that he received admit card pursuant to same and appeared in the written examination on the prescribed date i.e. 19.11.2016. As per the petitioner, he thereafter received information that his candidature for the post of Intelligence Assistant (Constable) in the Intelligence Wing, was not accepted as he had not been found eligible. He, thereafter appeared before the Recruitment Board personally in order to represent. On 27.12.2016, he submitted a detailed representation. No action has been taken thereon.

Case of the other petitioners, who may have applied in other categories including General category, is on similar lines.

Stand of the State is that to become eligible for appointment of Intelligence Assistant, a candidate should be a graduate from a recognized University or Institution and should also possess an 'O' Level Certificate of Information Technology from Department of Electronics Accreditation of Computer Course (DOEACC) or National Institute of Electronics and Information Technology (NIELIT) or its equivalent institution recognized by Government of India or any State Government. As per the stand of the State, the petitions are liable to be dismissed as petitioners do not possess the necessary qualifications as per the advertisement.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

At the outset it is necessary to refer to the advertisement in

question. Clause 5 (c) thereof laid down the questions. Same reads as under:-

“C. EDUCATIONAL QUALIFICATIONS:

The minimum educational qualification for direct recruitment as Intelligence Assistants (in rank of Constables) shall be as defined in Appendix 'B' (Sr. No.04) of Punjab Intelligence Cadre (Group C) Service Rules, 2015 as amended by the Punjab Intelligence Cadre (Group C) Service (First Amendment) Rules, 2016:

(b) Should be a graduate from a recognized university or institution, as the case may be, provided that such candidate should also possess an 'O' Level Certificate of Information Technology from Department for Electronics Accreditation of Computer Course (DOEACC) or National Institute of Electronics and Information Technology (NIELIT) or its equivalent institution recognized by the Government of India or any State Government.

(b) B.Sc/B.Tech/BE in Information Technology or Computer Science or Information Systems or B.C.A. or Post Graduate Diploma in Computer Applications from a recognized university or institution, as the case may be.”

As per their own stand, petitioners do not possess the aforesaid qualification. On the other hand, they claim equivalence on the basis of qualifications possessed by them. Such equivalence is not prescribed anywhere. Petitioners claim it on the basis of parameters conceived by themselves. The selection process was conducted by a State level Direct Recruitment Board comprising senior officers, who considered the qualification as per the advertisement. The requirement as per the advertisement was to possess an 'O' Level Certificate of Information

Technology from the Department of Electronics Accreditation of Computer Course (DOEACC) or National Institute of Electronics and Information Technology (NIELIT) or its equivalent institution recognized by the Government of India or any State Government.

The Selection Board found that qualification possessed by the petitioners was not equivalent to that prescribed in the advertisement. Counsel for the petitioners have tried to convince this court about the equivalence of qualification. However, the argument does not cut ice. The qualification is clearly prescribed in the advertisement. Admittedly petitioners do not possess the same. There is nothing to show that qualification possessed by the petitioners including the 'O' Level Certificate, if any, has been obtained from an institution equivalent to DOEACC or NIELIT, recognized as such by Government of India or any State Government. The emphasis in the advertisement is on “equivalent institution” recognized by Government of India or any State Government. None of the petitioners claim to have qualification from such “equivalent institution”.

In view of above, I find no ground to interfere in the decision taken by the Recruitment Board. Petitions are without any merit and are hereby dismissed.

(RAJAN GUPTA)
JUDGE

June 06, 2019
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No