

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

CWP-11454-2018
Date of decision: 18.12.2019

Vikram Bhatti

.....Petitioner.

vs.

State of Haryana and others

.....Respondents.

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Sunil K. Nehra, Advocate for the petitioner.

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

Ms. Banni Chibber Mahajan, Advocate for
Mr. Prateek Mahajan, Advocate for respondent No. 2 and 3.

.....

Sanjay Kumar, J. (ORAL)

The grievance of the petitioner in this case was that he was not called for interview for selection to the post of Field Inspector (Store) pursuant to Advertisement No. 6/2016 (Annexure P-1) in BC(A) category in the Haryana State Co-operative Supply and Marketing Federation Limited (for short, 'the HAFED'), the second respondent. He sought a further direction to treat him as eligible for the said post and to interview him provisionally.

By order dated 8.5.2018 passed in this writ petition, this Court directed that the petitioner should be interviewed provisionally subject to the final decision in this writ petition. The Haryana Staff Selection Commission, which undertook the selection process for recruitment to the subject post, filed its reply through its Secretary

(Legal). Therein, he pointed out that the educational qualification required for the subject post was :

- i) Graduation from a recognized University;
- ii) Minimum 1 year diploma in computers from a recognized University/Institute;
- iii) Knowledge of Hindi/Sanskrit upto Matric Standard or in Higher education.

He however admitted that the petitioner had cleared the computer based online test and was called for scrutiny of documents but he was not considered eligible as he had attached the certificate of a one year computer diploma in Advanced Computer Teacher Training Course from Gramin Shiksha, Fatehabad, which was not recognized. It is on this basis that he justified the exclusion of the petitioner from the list of candidates called for the interview. Reliance was also placed upon the clarification issued by HAFED under its letter dated 2.2.2018 (Annexure R3/1), whereby it was stated that as per the HAFED Common Cadre Rules, the basic qualification for the subject post required one year diploma in computers from a recognized University or Institute and therefore, candidates having computers as a subject during graduation without having the prescribed diploma should not be treated as eligible.

It is an admitted fact that the petitioner possesses a B.Tech degree in Information Technology from a recognized University. Therefore, notwithstanding the fact that his diploma in computers was from an unrecognized Institute, the issue for consideration would be whether his engineering qualification could be brushed aside so as to treat him as ineligible for selection to the subject post. A similar question figured for consideration before a **Division Bench** of this Court in ***LPA-1458-2012***, titled ***Rishi Pal and others vs. Haryana State Cooperative***

Supply and Marketing Federation Limited and another. A copy of the common order dated 30.11.2012 passed in the afore-stated batch of cases is placed on record. Perusal thereof reflects that the Division Bench, upon consideration of the entire issue, opined that once a candidate possessed a qualification which was higher in all respects and in the same line as was prescribed in the advertisement, he could not be treated as falling short of the required qualification.

Though, the clarification issued by HAFED is of later origin, being of the year 2018, there is no logic as to why a person with a higher qualification should be shown the door merely because he did not possess a diploma, a lesser qualification, in terms of the prescription. It cannot be doubted that an Engineering Graduate in Information Technology would have far more experience and expertise in relation to computers than a person who does a one year diploma in computers. The basis on which the petitioner was held to be ineligible therefore cannot be countenanced.

The writ petition is accordingly allowed directing the respondents to treat the petitioner as eligible for recruitment to the subject post. In the event he comes within the zone of consideration, pursuant to his having been interviewed provisionally in terms of the directions passed by this Court in this writ petition, his candidature shall be considered for appointment to the subject post, if still available.

No order as to costs.

(SANJAY KUMAR)
JUDGE

18.12.2019

preeti

whether speaking/non speaking

yes/no

whether reportable/non reportable

yes/no