

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

CWP No. 998 of 2012.

Date of Decision: 14.01.2019.

Harwinder Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Saravpreet Gurna, Advocate,
for the petitioner.

Mr. Vikas Mohan Gupta, Addl. AG Punjab.

Mr. G.P.S. Bal, Advocate,
for respondent Nos. 3 to 10.

JITENDRA CHAUHAN.J.

The petitioner seeks quashing of the selection list dated 23.11.2011 (Annexure P-4) of Vocational Masters and a direction to the respondents to consider him eligible for the post of Vocational Master.

The brief facts of the case are that an advertisement (Annexure P-1) was issued by the respondents for filling up 78 posts of Vocational Masters. The petitioner holding a full time regular MBA degree in Marketing management from Punjabi University, Patiala applied for the post of Vocational Master. As per the result, stated to be provisional, the petitioner passed the test with 45.075%. However, the petitioner was not called for counselling despite having passed the entrance test. Rather, he was informed that his candidature had been turned down as he did not possess the requisite qualification of

diploma in cooperative management.

It is contended that the petitioner had done MBA in Marketing Management, therefore, he is more qualified than the diploma holder. The subjects which are taught in diploma course in cooperative management have already been studied by the petitioner in MBA Marketing Management.

On the other hand, the stand of the respondents is that the essential qualification for the post of Vocational Master was “M.A. (Cooperation/Cooperative Management) or MSC (Cooperation and Banking) or MSC (Agriculture Marketing and Cooperation) or Post Graduate Diploma in Business Administration (Cooperation).” Since the petitioner did not possess the required diploma in cooperative management, therefore, he was not found eligible for the post of Vocational Master and as such the name of the petitioner did not figure in the merit list.

Heard.

On 09.02.2016, this Court had passed the following order:-

“Counsel for the petitioner submits that the petitioner's claim for appointment as Vocational Master (Cooperation) has not been considered on the ground that he has done his MBA (Marketing Management) from Punjabi University, Patiala. Counsel on the other hand submits that as per advertisement dated 23.9.2009 (Annexure P/1) the following qualifications were required:-

*“(XVI) VOCATIONAL MASTER-CO-OPERATION:-
QUALIFICATION: M.A.(Cooperation/Cooperative Management) or M.Sc.(Cooperation and Banking) or M.Sc. (Agriculture Marketing and Cooperation)*

or Post Graduate Diploma in Business Administration (Cooperation)."

It is submitted that in view of having MBA (Marketing Management) degree the petitioner is better placed than the private respondents who have only requisite diploma in Business Administration (Cooperation).

Counsel has further placed reliance upon Annexure P/5 which was issued by the National Council for Co-operative Training for the Higher Diploma in Cooperative Management wherein the subjects are mentioned.

It is not disputed that the vacancies are still available and if the subject experts opine in favour of the petitioner, the petitioner can be favourably accommodated on account of his alleged higher qualification if it is in the same line.

It is case of the petitioner that on comparative reading of the Detailed Marks Card issued by the Punjabi University, Patiala (Annexure P/6 Colly) would go on to show that a large number of subjects are common between the said diploma which is issued by the National Council for Co-operation Training and the degree of MBA which he has done.

It is accordingly submitted that on account of having higher qualification, the petitioner was entitled for due consideration but his case was not considered on account of the fact that his MBA degree is not in the field of cooperation.

Keeping in view the judgment of the Full Bench in CWP No.451 of 2008 titled as 'Manjit Singh Vs. State of Punjab and others' (2011) 161 PLR 656 wherein it has been held that person having higher qualification in the same field would solicit consideration, this Court is of the opinion that the respondents should seek expert opinion regarding equivalence of the degree which the petitioner has i.e. MBA (Marketing Management) and the Higher Diploma in Cooperative Management which the private respondents possess and have got a certificate dated 23.3.2012 (Annexure R-3/4) from the Regional Institute of Cooperative Management, Chandigarh that the said diploma is equivalent to the Post Graduate Diploma in Business Administration (Cooperation).

Accordingly, official respondents are directed to get an opinion from the subject experts to be nominated by the Vice-Chancellor of the Panjab University,

Chandigarh. It shall be open to Vice-Chancellor to examine whether the opinion is to be taken from the Head of the Department of MBA/University Business School, P.U.Chandigarh or any other concerned head of the department regarding the equivalency factor and whether the petitioner's degree of MBA (Marketing Management) would be similar in nature to the Post Graduate Diploma in Business Administration (Cooperation). Let necessary exercise be got conducted within a period of two months from today.

Adjourned to 25.4.2016.”

In pursuance of the order dated 09.02.2016, report dated 25.04.2016 (Annexure R-1/3) was received with the remarks that the degree of MBA (Marketing Management) of the petitioner is not similar in nature to the Post-graduate diploma in Business Administration (Co-operation).

From the above, it is clear that the petitioner does not possess the requisite essential qualification of diploma in cooperative management required for the post of Vocational Master advertised vide Annexure P-1. The Court in view of the clarification dated 25.04.2016 (Annexure R-1/3) is not inclined to enter into the arena of deciding whether the subjects studied by the petitioner during MBA in Marketing Management could be said to be equal to the subjects which are taught during diploma course as the same falls in the domain of the academic experts. Hence, finding no merit in the contention raised by the learned counsel for the petitioner, the instant petition is hereby dismissed.

14.01.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No