

CWP No.14408 of 2016 (O&M)

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

CWP No. 14408 of 2016 (O&M)

Decided on: 08.07.2019

Pardeep Singh

...Petitioner

Versus

Punjab National Bank and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Gaurav Singla, Advocate
for petitioner.

Mr. Madan Gupta, Advocate
for the respondent-Bank.

Mr. Harsh Aggarwal, Advocate
for respondents No. 2 and 3.

ARUN MONGA, J.

1. Petitioner herein seeks quashing of selection as well as selection procedure adopted by the respondent-Punjab National Bank while conducting recruitment for 66 posts of 'Peon' during the year 2015 vide advertisement (Annexure P-1).

2. The factual matrix of the case is that the respondent-Bank advertised posts of 'Peon' in the year 2015. The petitioner being a B.A. Degree holder (graduate) and fulfilling the eligibility criteria for the post, applied for the same. The essential qualifications for the posts were 10+2 or equivalent pass with adequate knowledge of Hindi and English language. Thereafter, the petitioner was shortlisted and called for interview. However, the petitioner was not selected.

3. On inquiring into the matter, the petitioner came to know

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that all 66 posts have been filled. To his shock respondents No. 2 and 3, being lower in merit (i.e. having lesser marks than the petitioner in 10+2 examination) were selected. He sought information regarding the criteria adopted by the respondent-Bank while making the selection, vide application dated 09.11.2015 (Annexure P-5) under RTI Act, 2005. His request was declined vide letter dated 08.12.2015 (Annexure P-6). The petitioner went in appeal against the said order but the same was also disposed of in a non-speaking manner vide order dated 03.02.2016 (Annexure P-7). Hence, the present writ petition.

4. Learned counsel for the petitioner stated that the entire selection process was conducted in an unfair and arbitrary manner. The petitioner clearly had higher educational qualifications as set out in the advertisements. He placed reliance on the 10+2 certificates of respondents No. 2 and 3 (Annexures P-3 and P-4 respectively). It is stated that being more meritorious candidate than the ones selected, the petitioner ought to have been appointed instead of the private respondents.

5. Learned counsel has placed reliance on judgment rendered by a Full Bench of this Court in '**Manjit Singh vs. State of Punjab and others'** reported as 2010 (3) SCT 703, wherein it has been held that the candidates having higher qualification than prescribed cannot be barred from participating in the selection process. However, they would not be entitled to any additional weightage unless the specified in the criteria set out by the recruiting

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agency.

6. Per contra, learned counsel for the respondent-Bank has argued that the maximum qualification for the posts of Peon as advertised vide Annexure P-1 was 10+2 or equivalent along with basic reading/writing knowledge of English and Hindi. The petitioner having Graduation degree, was ineligible for appointment to the post of Peon having higher qualification than the one prescribed. It is further stated that having more or less marks in 10+2 was not the criteria for selection. The interview committee had judged the candidates on merit and performance in the interview as also their knowledge of English and reading/writing skills and final selections were made accordingly. The petitioner not fulfilling the requirements was not selected.

7. Learned counsel for the respondent-Bank referred to judgment of Hon'ble the Apex Court in '**Zahoor Ahmad Rather and others vs Sheikh Imtiyaz Ahmad and others**' reported as 2019 (1) **SCT 232**. The Apex Court here has held that prescription of qualification for a post is matter of recruitment policy and the body conducting the recruitment is entitled to set the qualifications for the posts advertised.

8. Learned counsel for respondents No. 2 and 3 has contended that the writ petition is hit by delay and laches. The advertisement (Annexure P-1) was issued in January, 2015 and interviews were held in March, 2015. The selection process also concluded in March, 2015. It is also stated that the petition deserves

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to be dismissed due to non-joinder of necessary parties. As the entire selection process is under challenge, all selected candidates ought to have been made party herein.

9. Stand taken by learned counsel for the respondent-Bank is also that the maximum qualification was fixed as 10+2 pass and the petitioner being a Graduate was ineligible. It is stated that having once participated in the interview process, the petitioner could not now turn around and challenge the same.

10. I have heard the learned counsel for the respective parties and have also gone through the pleadings.

11. Advertisement Annexure P-1 published in Punjabi inviting applications mentioned that the prescribed maximum educational qualification to apply for the post was twelfth class pass. It was specifically indicated in the advertisement that the candidate should not have passed graduation.

12. Admittedly, the petitioner had completed his graduation (B.A.) in 2010. It is the specific case of respondent No.1 that if the petitioner would have disclosed on the date of application that he was a graduate, his candidature was liable to be rejected. I find substance in the contention of the learned counsel for respondent No.1 that while submitting his application for the post, the petitioner concealed the material fact of his having completed the graduation (passed B.A.) as he knew that its disclosure would render him ineligible to apply. The petitioner having been guilty of concealment

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of material facts going against him, while applying for the post in question, does not deserve the indulgence of this Court.

13. In **Zahoor Ahmed Rather and others Vs. Sheikh Imtiyaz Ahmed and others, 2019(2) SCC 404**, it was held as under:-

23. *“While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The state is entrusted with the authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision making. The state as a public employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these are essentially matters of policy. Judicial review must read warily. That is why the decision in Jyoti KK must be understood in the context of a specific statutory rule under which the holding of a higher qualification which presupposes the acquisition of a lower qualification was considered to be sufficient for the post. It was in the context of specific rule that the decision in Jyoti KK turned.”*

14. In view of this legal position enunciated by the Hon'ble Supreme Court, it appears that the competent authority could legitimately prescribe the maximum educational qualifications as aforesaid. Further, this being the situation, the earlier judgment of this Court in **Manjit Singh Vs. State of Punjab and others** (supra) does not help the petitioner in the contention that his having

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completed the graduation did not affect his eligibility to apply and the claim herein for appointment to the post of peon.

15. The petitioner has only sought writ of certiorari for setting aside of the selection made and the procedure therefore adopted by respondent No.1. He has not challenged or sought quashment of the advertisement and/or the relevant Policy prescribing the aforesaid maximum qualification. This being the position, there seems nothing wrong in the adoption of the prescribed criteria by respondent No.1 while making the selection and appointments.

16. Learned counsel for the respondents seem right in their contention that the marks obtained by candidates in the academic examinations were not the only single factor prescribed or implied for determination of their comparative merit and suitability for the post of peon. It has been asserted that the interview committee had assessed the performance of all eligible candidates on the basis of their reading/writing knowledge of English, performance in the interview etc. Merely because, as contended by the learned counsel for the petitioner, he had secured more marks than respondents No.2 and 3 in the academic examination, it did not necessarily mean that his overall merit and suitability for appointment to the post of peon were higher than and superior to that of respondents No.2 and 3.

17. Admittedly, 66 persons were appointed as Peons pursuant to the selection in question. The petitioner is asking for quashment of all those appointments. Out of the 66 appointees, only two have been impleaded. In the absence of the remaining 64

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appointees, the petition suffers from the vice of non-joinder of necessary parties.

18. As a result of the above, discussion, I find no merit in the petition. The same is dismissed.

19. No order as to costs.

08.07.2019
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No