

KRISHAN SINGH YADAV

.....Petitioner

Vs.

UNION OF INDIA & ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL**Present:** Mr. B. S. Rathee, Advocate for the petitioner.

Mr. Raman Sharma, Advocate for respondents No.2 and 3.

None for remaining respondents.

SUDHIR MITTAL J. (ORAL)

The petitioner applied for LPG distributorship at Hansi advertised vide advertisement dated 20.11.2013. The petitioner applied in the category of 'Government Personnel' being an Ex-serviceman. He applied alongwith the requisite documents before the last date advertised. Vide communication dated 25.11.2014, he was informed that he has been considered eligible to take part in the draw of lots. The petitioner succeeded in the draw of lots and information regarding the same was supplied vide letter dated 03.12.2014. Thereafter, the candidature of the petitioner was evaluated by the Field Verification Committee (FVC) which found that he did not possess the eligibility criteria of academic qualification. Accordingly, letter dated 31.03.2016 (Annexure P-13) was issued to the petitioner informing him that his candidature had been cancelled. Thus, the present writ petition has been filed.

During the pendency of this writ petition, fresh draw of lots was

conducted in which respondent No.4 was successful. Consequently, a letter of allotment dated 06.04.2017 has been issued in her favour. Respondent No.4 has, however, chosen not to put in appearance despite service.

Learned counsel for the petitioner submits that upon having been relieved from the Indian Army, a certificate dated 31.03.1994 was issued to him, a copy of which is Annexure P-7 on the record. The certificate is titled as 'Graduation Certificate'. According to the Ex-serviceman (Re-employment in Central Civil Services and Posts) Rules, 1979 (hereinafter referred to as '1979 Rules') as amended from time to time, the holder of a certificate, as possessed by the petitioner, is deemed to be a graduate and is entitled to be appointed to Group-C post for which graduation is an essential educational qualification. The Ministry of Human Resources Development of the Government of India has issued a notification dated 31.04.1996 wherein it has been declared that qualifications recognized for the purpose of recruitment to superior posts and services under the Central Government whose equivalence does not exist otherwise, to be recognized qualifications for the purposes of employment under the Central Government for which graduation is a prescribed qualification. Thus, not only the Department of Personal and Training but the Ministry of Human Resources Development has recognized the certificate possessed by the petitioner as equivalent to a graduation certificate.

According to the guidelines for selection of regular LPG distributors issued in August, 2013, various selection criteria had been laid down. For individual applicants, the relevant Clause is 6.1 of the guidelines of the year 2013 and the same prescribes that a candidate must *inter alia* be a

graduate from an university incorporated under an Act of the Central or State Legislature, any other educational institution established by an Act of parliament, an institution deemed as an University under the UGC Act, 1956 or possesses an equivalent qualification recognized by the Ministry of Human Resources Development, Government of India. Reference to notification dated 23.04.1996 issued by the Ministry of Human Resources Development, Government of India makes it more than abundantly clear that the qualification of the petitioner has been recognized by the Ministry of Human Resources Development to be equivalent to graduation degree issued by a University/Educational Institution established by an Act of Parliament/deemed to be an University. Thus, rejection of the candidature of the petitioner on account of non-submission of a graduation degree by a University/Educational Institution established by an Act of Parliament/deemed to be an University is illegal and is liable to be quashed.

Learned counsel for the respondents supports the decision dated 31.03.2016. According to him, Clause 6.1 of the guidelines of the year 2013 is mandatory in nature and the respondents are bound by the same. Further, it has been submitted that the Rules relied upon by the petitioner are not applicable to this case as the said Rules are for the purposes of recruitment only. Reliance has been placed on a Division Bench Judgment of the Allahabad High Court in **Jai Vijay Singh Vs. Union of India, Secy and others 2015(1) Allahabad Law Journal 702.**

Clause 6.1 (ii) of the guidelines of the year 2013 for selection issued in August, 2013 is reproduced below for ready reference.

“6.1. Common Eligibility Criteria for all Categories applying

The applicant should

- i. xxxxxx*
- ii. Have minimum any one of the following educational qualification awarded by any of the Universities incorporated by an Act of the Central or State Legislature in India or any other educational institutions established by an Act of Parliament or declared to be deemed as a University under the UGC Act, 1956, or possess an equivalent qualification recognized by the Ministry of HRD, Government of India as on the date of application:*
 - a) Graduation in any field.*
 - b) Chartered Accountant.*
 - c) Company Secretary.*
 - d) Cost Accountant.*
 - e) Diploma in Engineering.*
- iii. xxxxx*
- iv. xxxx*
- v. xxxx*
- vi. xxxx*
- vii. xxxx*

A perusal of the aforementioned provision shows that a candidate should either possess an educational qualification prescribed therein that has been issued by an University, educational institution established by an Act of Parliament, University/deemed to be an University or should possess an equivalent qualification recognized by the Ministry of Human Resources Development. The 1979 Rules have been framed for regulating recruitment of Ex-serviceman in Central Civil Services and Posts. Rule-4 thereof provides for 10% vacancies in all Para Military Forces and in each category of Group-C posts and 20% vacancies in each

category of Group-D posts. Rule-6 of the said Rules relates to special provision regarding educational qualification and sub-Rule 4 has been inserted therein vide notification dated 12.02.1986 which is in the following terms.

“(4) For appointment to any reserved vacancy in group C posts, a matriculate Ex-Serviceman (which term includes an Ex-Serviceman, who has obtained the Indian Army Special Certificate of Education or the corresponding certificate in the Navy or the Air Force, who has put in not less than 15 years of service in the Armed Forces of the Union may be considered eligible for appointment to the posts for which the essential educational qualification prescribed is graduation and where.”

Thus, a certificate of the nature possessed by the petitioner has been recognized as equivalent to graduation. Notification dated 23.04.1996 issued by the Ministry of Human Resources Development clarifies that the Government of India recognizes the qualifications already recognized and whose equivalent does not exist otherwise, as a recognized qualification for the purpose of employment under the Central Government for which a bachelor degree is a prescribed qualification.

Reading Clause 6.1 of the guidelines of the year 2013 in the aforementioned context, leaves no manner of doubt that an equivalent qualification recognized by the Ministry of Human Resource Development is the same as a certificate of graduation issued by a University/Educational Institution established by an Act of Parliament/deemed to be an University. Thus, the rejection of the candidature of the petitioner is held to be illegal.

The judgment in **Jai Vijay Singh** (supra) relied upon by the

learned counsel for the respondent is not applicable as the provision interpreted therein is differently worded than Clause 6.1 (ii) of the guidelines reproduced above.

For the aforementioned reasons, the writ petition deserves to succeed. Order dated 31.03.2016 (Annexure P-13) is quashed. The respondents No.2 and 3 are directed to consider the candidature of the petitioner afresh in view of the findings returned hereinabove. Accordingly, the allotment letter dated 06.04.2017 (Annexure P-27) issued in favour of respondent No.4 is also quashed.

(SUDHIR MITTAL)
JUDGE

18.02.2020
Ali

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No