

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

**C.W.P No 19856 of 2014
Date of decision : 21.01.2020**

Deepak Kumar

....Petitioner

versus

State of Haryana and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ramesh Malik, Advocate
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana

Mr. Rajiv Pratap Atma Ram, Sr. Advocate with
Mr. Sube Sharma, Advocate
for respondent No. 4

RITU BAHRI, J. (Oral)

The present petition has been filed by the petitioner seeking writ in the nature of certiorari quashing the selection and appointment of respondent No. 4 on the post of System Analysts, advertised vide Advertisement No. 5/2014 dated 03.07.2014 and further prayer is for issuance of direction to the respondents to appoint the petitioner on the above post with all consequential benefits.

Brief facts of the case are that pursuant to advertisement dated 03.07.2014, the petitioner applied for the post of System Analyst, vide application dated 11.07.2014 (P-6). Petitioner was called for interview along with other candidates. The result was declared on 19.08.2014 and petitioner was put at No. 3 and respondent No. 4 was placed at No. 1. Subsequently, respondent No. 4 was selected to the post of System Analyst.

Learned counsel for the petitioner is challenging the appointment of respondent No. 4 on the ground that respondent No. 4 is unqualified for the above post, as he is not having the qualification prescribed under the Rules. He is not having the essential Managerial academic qualification of MBA. Learned counsel for the petitioner further contends that as per proposal sent on 25.02.2008 (P-1), the qualification of M.BA with Ist Division was mandatory.

On the other hand, learned senior counsel for respondent No. 4 has argued that as per Rule 7 read with Appendix B of Haryana Vidhan Sabha Secretariat Service Rules, 1981 (herein after to be referred to as 1981 Rules) qualification of MBA is required only for person who have qualified the B/C Level course from DOE in the first division. The qualification of M.B.A in Ist Division is not required for persons having the qualification of B.E/B.Tech/M.Tech (Computer/Information Technology, Electronics and Communication/Mechanical/Electrical in Ist Division. The use of word "OR" between the various qualifications prescribed at Sr. No. 5 of Appendix B makes it apparent that the Rule is disjunctive and the qualification of MBA in Ist Division is required with B/C Level course from DOE in Ist Division.

Learned State counsel has also argued that the qualification of M.B.A was also added for the persons who were to possess B/C Level Course from DOE. Reference has been made to amendment made in Rules 1981 on 27.08.2012 wherein after the Rules were framed by the Government, the post of System Analyst was advertised.

Heard learned counsel for the parties.

The copy of Rules 1981 supplied by learned State counsel in the Court today, is taken on record as Annexure R-1. Reference can be made to Appendix B of Rules 1981 wherein for the post of System Analyst, the

qualification required was (i) B.E/B.Tech/M.Tech (Computer/Information Technology, Electronics and Communication/ Mechanical/Electrical in Ist Division or B/C Level course from DOE in Ist Division along with MBA in Ist Division. (ii) Having three years exclusive experience of managing information Technology Projects/Software Development Projects in a reputed company with a strong evidence of deliverables in the form of executable software modules (iii) Knowledge of Hindi/Sanskrit upto Matric or higher education.

Further after the proposal was sent on 25.02.2008, the Rules were notified on 27.08.2012. As per Rules, the qualification of MBA is required only for person who have qualified the B/C Level course from DOE in the first division. Further as per RTI information dated 05.11.2014 sought by petitioner, the MBA is not must for the post of amended Service Rules of this Secretariat.

Reference at this stage can be made to judgment of Hon'ble the Supreme Court in a case of ***Punjab Higher Qulaified Teachers Union (Non-Petitioners) and others vs. State of Punjab and others, 1988 AIR (SC) 892*** wherein the writ petitions were allowed and Junior Basic Trained Teachers falling under Category B Group II on acquisition of higher educational qualification of B/A,B.T/B.A,B.Ed etc were held entitled to higher pay scale. Professional Experience of JST/JAV training was held to be not essential.

In view of the discussion made above, the present writ petition is dismissed. Petitioner is at liberty to challenge the vires of of the Rules, in accordance with law, if so advised.

January 21, 2020
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No