

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

CWP No.20840 of 2018
Date of decision : 29.05.2020

Sandeep Kumar Ravesh

...Petitioner

Versus

State of Haryana and others

....Respondents

Coram : Hon'ble Mr. Justice B.S.Walia

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

Ms. Safia Gupta, AAG, Haryana.

B.S.Walia, J.,

1. Prayer in the petition under Article 226 of the Constitution of India is for the issuance of a writ of Certiorari for quashing the impugned notice / announcement, Annexure P/6 dated 10.08.2018, vide which, the petitioner was not interviewed for the post of Mandi Supervisor-cum-Fee Collector, against category No.17, advertisement No.07/2015. Prayer is also for the issuance of a writ of Mandamus for directing the respondents to call the petitioner for interview for the aforementioned post in general category on account of the petitioner having secured more marks than the marks secured by the last candidate who had been called for interview in the general category. Lastly, prayer is for the issuance of a writ of Mandamus for directing the respondents to treat the petitioner as eligible for the post of Mandi Supervisor-cum-Fee Collector.

2. On 20.08.2018, while issuing notice of motion, it was directed that in the meantime, the petitioner be interviewed provisionally, subject to the decision of the writ petition, his result be kept in a sealed cover and be produced by the State Counsel on the next date of hearing.

3. Brief facts of the case leading to the filing of the instant writ petition are that the Haryana Staff Selection Commission (hereinafter referred to as 'the Commission') issued advertisement Annexure P/1 bearing No.07/2015, re advertising 126 posts of Mandi Supervisor-cum-Fee Collector under category No.17, out of which, 34 posts were reserved for general candidates. As per the advertisement, essential qualification for the post of Mandi Supervisor-cum-Fee Collector were as under :-

“(i) Graduation with 55% marks from a recognized university with six months certificate in Computer from a recognized Institution; and

(ii) Hindi/Sanskrit upto Matric Standard of higher education.

4. Petitioner, who is Bachelor of Technology (Mechanical Engineering), Master of Technology (CAD/CAM) full time from Punjab Technical University, Jalandhar, besides having a certificate of one year of study in D.C.A. (Diploma in Computer Application) from Z. King Group of Institution i.e. Annexure P/3 and thereby claiming to be fulfilling the eligibility conditions, applied for the

aforementioned post in the general category and was issued roll number Annexure P/2 and appeared in the written examination held on 28.05.2017. Petitioner claimed that on the basis of revised answer key put up on the website of the Commission, he had secured '142' marks in the written examination, whereupon he was called for scrutiny of documents, after which, notice / announcement Annexure P/6 was made by the Commission calling candidates for interview for the aforementioned post to be held on 04.09.2018. Petitioner had also claimed that while doing B.Tech. he had done fundamentals of computer programming as it was a compulsory subject of six months, therefore, he had done not only the basic course which was required for operating the computer but also an advance course.

5. On 14.11.2018, the writ petition filed by the petitioner was disposed of in terms of orders passed by this Court in CWP No.20394 of 2018, in case titled as Prince vs State of Haryana and another, of even date. It needs noticing here that in view of learned Advocate General, Haryana having placed on record the minutes of meeting of the Commission held on 07.09.2018, regarding decision pertaining to institutes which would be considered for computer courses for the post of Mandi Supervisor-cum-Fee Collector, CWP No.20394 of 2018 was disposed of and all the petitioners who had done their computer courses from the institutes list of which was mentioned in the order dated 14.11.2018, were directed to be treated as eligible. Relevant extract of the decision as reflected in order dated

14.11.2018, passed by this Court in CWP No.20394 of 2018, is reproduced as under :-

01. One year Diploma for Computer Operator and Programming Assistant, Desk Top Publishing Operator, Computer Hardware and Network Maintenance and six month Diploma of Data Entry Operator issued by Skill Development and Industrial Training Department.

02. Certificate Course (144 hours) of C-DAC.

03. Certificate Course of HKCL.

04. Certificate Course of HARTRON.

05. All Engineering Degree / Bachelor Degree / Master Degree (different nomenclature) in Computer / Computer Engineering / Computer Science / Information Technology / Computer Application e.g. B.Tech / BE / B.Sc. Engg. / BCA / B.SC. / Masters in Computer / Computer Science / Information Technology / Computer Application recognized for AICTE / UGC.

06. HARTRON Diploma in Financial Accounting with HARTRON Skill Centre.

07. Diploma/Computer Course from District Council for Child Welfare.

08. Diploma/Computer Course from Red Cross Society.

09. Diploma/Computer Course from National Institute of Skill

Development (NISD) approved from MHRD/Any State Government.

10. Diploma/Computer Course from District Rural Development

Agency (DRDA).

11. Diploma/Computer Course from NIELIT (Ministry of IT, Govt. of India).

12. Diploma/Computer Course from any wing of Indian Force (Army/Air Force/Navy).

13. Diploma/Computer Course from ET&T Corporation Ltd.

14. Computer Diploma issued by a College affiliated/ recognized to University (framed under State Act/Central Act).

15. PGDCA issued by University.

16. Three years Diploma in Computer/IT from Polytechnic recognized by Technical Education Department.

6. On 19.11.2018, CM No.17565-CWP of 2018 was moved, claiming that notice / announcement Annexure A/2 dated 17.11.2018 had been issued by the Commission calling more candidates for interview commencing from 21.11.2018, as per which, the department was not considering the petitioner and other similarly situated

candidates as eligible despite communication Annexure A/1 dated 10.09.2018, referred to in the order of this Court in CWP No.20394 of 2018. However, on 21.11.2018, learned counsel for the petitioner stated that Annexure A/2 had been withdrawn by the respondents, vide order dated 17.11.2018 and a decision had been taken to issue fresh notice for interview as per order dated 20.11.2018, therefore, the petition had been rendered infructuous. Accordingly, the writ petition was disposed of. Thereafter, CM No.19486-CWP of 2018 was filed on 18.12.2018 for revival of the writ petition after recalling of order dated 14.11.2018. On 10.07.2019, while noticing that the petitioner had secured '142' marks in the written examination and '20' marks in the viva-voce i.e. total of '162' marks and belonged to the 'SBC' category which had been treated as general category, whereas the last candidate in the general category had secured '154' marks, one post was ordered to be kept reserved for the petitioner since he had secured more marks than the last selected candidate in the general category. On 06.09.2019, the application was allowed and order dated 14.11.2018 was recalled and the writ petition was restored to its original number.

7. Grievance of the petitioner was that although last candidate to be called for interview in the general category had secured '132' marks, the petitioner had not been called for interview despite having secured '142' marks in the written examination, besides he fulfilled all eligibility conditions and that he was Master of Technology (CAD-CAM). Learned Counsel further claims that the

Master of Technology Course (CAD-CAM) was recognized by AICTE.

8. In the reply filed on 05.02.2020, on behalf of respondent No.3, the stand taken is that the petitioner was not found eligible on account of his not possessing the requisite qualification as per the advertisement as he had done B.Tech. Mechanical and M.Tech. (CAD / CAM), but the petitioner had not done Bachelor degree / Master Degree in Computer Science, which could be considered by the respondent / Commission. Besides, the petitioner did not possess six months certificate in computer from a recognized institution as per list Annexure R3/2 and the certificate of Z. King was not amongst the list of recognized institutions. However, learned Counsel for the respondents has not controverted the submission of learned Counsel for the petitioner of Master of Technology (CAD-CAM) being approved by the AICTE.

9. Thus, the short point for consideration is as to whether the petitioner who possesses the qualification of Master of Technology (CAD-CAM) from Punjab Technical University is eligible for consideration for selection and appointment to the post in question or not.

10. Admittedly, a decision was taken by the Commission to treat all the candidates who had the following qualifications as eligible. The list of qualifications considered conferring eligibility are as under :-

“All Engineering Degree / Bachelor Degree / Master Degree (different nomenclature) in Computer / Computer Engineering / Computer Science / Information Technology / Computer Application e.g B.Tech / BE / B.Sc. Engg. / BCA / B.SC. / Masters in Computer / Computer Science / Information Technology / Computer Application recognized for AICTE / UGC.

11. Admittedly, the petitioner has done Master of Technology (Computer Assisted Design / Computer Assisted Manufacturing) full time in April, 2012, from Punjab Technical University, Jalandhar. The same is claimed by learned Counsel for the petitioner to be recognised by AICTE. Learned Counsel for the respondents has not controverted that the aforesaid course is recognized by the AICTE. The position would have been different had the said course not been recognized by AICTE. Once the petitioner possesses qualification of Master of Technology (Computer Assisted Design/Computer Assisted Manufacturing) full time in April, 2012, from Punjab Technical University, Jalandhar i.e. in computer application and the same is recognized by the AICTE, the petitioner fulfills the qualification stipulated in the minutes of meeting of the Commission held on 07.09.2018, whereby a decision was taken with regard to institutes which would be considered recognized for computer courses and conferring eligibility for the post of Mandi Supervisor-cum-Fee Collector. Accordingly, in view of the petitioner, having done Master of Technology (CAD / CAM) full time, which includes various

subjects including Computer Aided Design / Computer Integrated Manufacturing System / Computer Control in M/C Tools, Computer Aided Process Planning (Elective), CAD / CAM Lab-I, CAD / CAM Lab-II, CAD / CAM Lab-III, the petitioner, fulfills the conditions for consideration for selection and appointment to the post of Mandi Supervisor-cum-Fee Collector, as per merit.

12. In the light of the position as noted above, the writ petition is allowed. Impugned orders are quashed and the respondents are directed to treat the petitioner who possesses the qualification of M.Tech. from Punjab Technical University, Jalandhar, in the discipline of (CAD/CAM) i.e. computer application as eligible, as per merit, for the post of Mandi Supervisor-cum-Fee Collector against advertisement No.07/2015 category No.17, in general category and to take action on said basis in accordance with law as expeditiously as possible.

B.S.Walia)

Judge

29.05.2020.

rajesh.k.khurana

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No