

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

205-CWP-16525-2020 (O&M)

Date of Decision: 02.03.2021

Sanjeev Kumar

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. Madan Pal, Advocate for the petitioner

Ms. Safia Gupta, AAG Haryana

Mr. Kanwal Goel, Advocate for respondent No.3

GIRISH AGNIHOTRI, J. (Oral)

The petitioner Sanjeev Kumar stated to be 37 years has filed the present writ petition *inter alia* with prayer seeking quashing of the impugned part of the advertisement where candidates who are having Degree in B.Sc. Agriculture (Hons.) with Horticulture as one of the subjects from recognized university have been allowed and candidates like the petitioner having B.Sc. degree in Agriculture with Horticulture as one of the subjects have not been considered for the post of Horticulture Development Officer (Class-II).

Record shows that vide order dated 08.10.2020 passed by this Court, notice of motion was issued. The order dated 08.10.2020 reads as under:-

“The case has been taken up for hearing through video-conferencing.

At the very outset, learned counsel for the petitioner submits that due to some typographical error, word 'petitioners' has appeared at number of places in the writ petition. This petition be considered on behalf of single petitioner i.e. Sanjeev Kumar. Ordered accordingly.

Learned counsel for the petitioner relies upon decision dated 30.10.2015 rendered in LPA No. 1638 of 2014 to contend that the controversy is settled by the Division Bench and the petitioner, being a qualified B.Sc. Agriculture is entitled for consideration even on the basis of prescribed qualification of B.Sc. Agriculture (Hons) with Horticulture as one of the subjects. Learned counsel further submits that the respondent-Commission had dismissed the representation of the petitioner only on 5.10.2020 and vide announcement of even date, the Commission has fixed 7.10.2020 and 8.10.2020 as dates of interview. In similar matter i.e. CWP No.7316 of 2019, indulgence has been granted to the writ petitioner of the case to participate in the selection process provisionally.

Notice of motion for 28.1.2021.

On the asking of Court, Ms.Deipa Singh, Addl.A.G, Haryana accepts notice on behalf of respondents No.1 and 2. Let notices be issued to respondents No.3 and 4. In the meanwhile, respondents are directed to allow the petitioner to participate in the process of interview today provisionally and his result be kept in a sealed cover till further orders.

October 08, 2020

(RAJ MOHAN SINGH)
JUDGE”

Having heard learned counsel for the parties, this Court is of the considered opinion that the writ petition deserves to be disposed of as partially allowed.

In response to the notice of motion, replies on behalf of the respondents have been filed.

In short reply filed on behalf of respondents No.1 & 2, it has been *inter alia* submitted that there is no provision of ‘equivalence’ in the departmental rules. It is also argued by learned State counsel by making reference to the pleadings in the short reply that even if the petitioner was so

Separate reply on behalf of respondents No.3&4 has also been filed wherein it has been *inter alia* averred that the Commission has proceeded in accordance with law. Learned counsel appearing for the Commission further submits that even if the petitioner is relying upon the Division Bench judgment of this Court dated 30.10.2015 in **LPA No.1638 of 2015 (Rakesh & Anr. Vs. State of Haryana & Ors.)** (P6), the petitioner could not be granted any benefit because even after the said judgment, till date, the statutory rules remain in its original unamended position. It is then submitted that in the present case, the petitioner vide letter dated 04.09.2020 (P17) was duly informed that he does not possess the requisite qualification as per the advertisement i.e. “*Degree in B.Sc. Agriculture (Hons.) with Horticulture as one of the subjects*”. He submits that the Commission had sought an expert advice on the issue. The expert advice has been attached which is reproduced hereunder:-

Experts Remarks - HDO (Qualified Recruitment Test Candidate)				
Roll No.	Name	Father Name	Eligible Qualification	Whether possessing requisite qualification or Not
72882	Sanjeev Kumar	Sukh Pal	Possess only B.Sc. Agriculture from Choudhary Charan Singh University, Meerut. Later on equaliance (sic equivalence) B.Sc. Agri. And B.Sc. (Hons.) Agriculture has been issued by the Registrar and recognition of University needs to be checked.	No Possess only B.Sc. Agriculture from Choudhary Charan Singh University, Meerut. Later on equaliance (sic equivalence) B.Sc. Agri. And B.Sc. (Hons.) Agriculture has been issued by the Registrar and recognition of University needs to be checked.

Learned counsel for the respondent-Commission further submits that in the judgment relied upon by the petitioner, there are many distinguishable facts: firstly, the post in question before the Hon’ble Division Bench was ‘Agriculture Development Officer’ whereas in the present case, the post in question is ‘Horticulture Development Officer’.

Agriculture Development Officer was in B.Sc. (Hons.) in Agriculture from recognized University whereas the qualifications in the present advertisement are “*Degree in B.Sc. Agriculture (Hons.) with Horticulture as one of the subjects or....*”. Thirdly, in that case the candidate was denied appointment on the ground that their degree is not equivalent.

This Court for the facts noticed above and for the reasons recorded hereinunder, accepts the submission made by counsel for the petitioner.

It cannot be disputed that the Division Bench in **Rakesh & Anr.** had noticed that vide order dated 17.11.2014, this Court (in LPA Nos.1638, 253 and 433 of 2014) had directed the constitution of an Expert Committee to consider as to if the degree of B.Sc. (Agriculture) four years is equivalent to B.Sc. (Honours.) in Agriculture. Before the Division Bench, an affidavit was filed wherein it was mentioned that the Government has taken a decision after taking the report from Association of Indian Universities (AIU) and Indian Council of Agriculture Research (ICAR) that B.Sc. Agriculture degrees awarded by other State Agriculture Universities/Colleges affiliated with UGC/approved by ICAR are equivalent to Degree of B.Sc. Agriculture (Hons.) awarded by CCS HAU, Hisar. Based upon the said affidavit, the appellants/petitioners therein having been treated eligible for appointment were held entitled to be appointed to the post of Agriculture Development Officer.

This Court, in view of the above, is of the considered view that there is force in the contention of the petitioner that in view of **Rakesh & Anr.** and the State’s affidavit filed in that case, the petitioner who was possessing qualification of Bachelor of Science in Agriculture i.e. B.Sc.

Agriculture, ought to have been considered to be possessing the required Degree in B.Sc. Agriculture (Hons.).

The second issue which requires consideration is the requirement of "...degree in B.Sc. Agriculture (Hons.) with **Horticulture as one of the subjects...** [emphasis attached]. In this regard, learned counsel for the petitioner, by making reference to the certificates appended with the petition as Annexures P2 (with specific reference to Annexures at Page 44 to 46), submits that in his second year, the petitioner had the subject of Olericulture & Floriculture, which according to the petitioner is a subject of horticulture. He then refers to the certificate regarding B.Sc. Agriculture 3rd year wherein he submits that there was a subject of Horticulture III. Counsel then refers to the next certificate which is for the 4th year wherein there was a subject of Fruit Preservation. In view of the above, the petitioner ought to have been considered by experts.

The next point which needs to be considered is the objection taken by respondents No.1&2 regarding non-providing of word 'equivalence' in the advertisement. This Court has been shown the qualification for the post of Agriculture Development Officer, which reads as under:-

<i>"Agriculture Development Officer</i>	<i>(i) Degree in B.Sc. (Hons.) in Agriculture from any recognized University</i> <i>(ii) Hindi upto Matric Standard"</i>
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The said qualifications, when compared with the qualifications prescribed for the post in question would clearly show that in the qualifications for the post of Agriculture Development Officer also, there was no requirement of word 'equivalence'. Secondly, once the Division

Bench of this Court had approved the affidavit given by the Department treating the qualifications of the appellants therein to be of B.Sc. Agriculture to be equivalent to B.Sc. Agriculture (Hons.), this objection cannot be sustained. For the ready reference, the memo/letter dated 20.10.2015 written by the Additional Chief Secretary to Government of Haryana, Agriculture Department to the Director of Agriculture Haryana Panchkula is reproduced:-

“With reference to your memo No.3497/Estt.II(2) dated 05.10.2015 on the above subject, the Government after examining the information received from Association of Indian Universities (AIU) and Indian Council of Agricultural Research (ICAR) has observed that nothing special/extra/different in the B.Sc. Agriculture (Honours) course 94 years duration after 10+2 and 6 years after 10th class) run by CCS HAU, Hisar. It is same as B.Sc. Agriculture course of 4 years duration after 10+2 being run by other States Agricultural Universities. Thus, the B.Sc. Agriculture degrees awarded by other States Agricultural Universities/Agricultural colleges affiliated with UGC/approved by ICAR is equivalent to the degree of B.Sc. Agriculture (Honours) awarded by CCS HAU, Hisar. In fact, CCS HAU, Hisar has kept the name of degree as B.Sc. Agriculture(Honours), whereas all other Universities under ICAR/UGC are awarding degrees of B.Sc. Agriculture although the course duration and course curriculum etc. are almost same/identical. Therefore, the Hon’ble High Court may kindly be apprised that degree of B.Sc. Agriculture although the course duration and course curriculum etc. are almost same/identical. Therefore the Hon’ble High Court may kindly be apprised that degree of B.Sc. Agriculture from a recognized University under 10+2+4 or 10+6 degree programme are the same as B.Sc. Agriculture (Honours) awarded by CCS HAU, Hisar. Similarly, degree awarded by Deemed Universities (IARI, IVRI, NDRI and CIFE) are B.Sc. Agriculture; B.Sc.

Agriculture (Honours) and B.Sc. (Agriculture & AH) are considered equivalent to B.Sc. Agriculture(Honours) or B.Sc. Agriculture by ICAR. The Association of Indian Universities has also accepted the report of ICAR.

In view of the above explained position, you are requested to prepare the reply to the above LPAs accordingly and file the same in the Hon'ble High Court before the next date of hearing i.e. 30.10.2015 by getting it approved from the competent authority.

You are also advised to make changes in the service rules for HAS-I and HAS-II in the qualification column accordingly.”

This Court is of the view that a perusal of the above letter would clearly show that the Government had actually taken a conscious decision to further mention in the letter that steps to make changes in the service rules for HAS-I and HAS-II in the qualification column be accordingly taken. However, because no amendment has been made, the present controversy/difficulty has arisen.

The next point that needs to be considered is the objection taken by respondents No.1&2 to the effect that the petitioner ought to have challenged the advertisement itself. This Court is not inclined to accept this objection because as per the petitioner, he was relying upon the judgment of this court and was also sure that in view of the judgment dated 30.10.2015 and the memo dated 20.10.2015 issued by the Government, the petitioner would be considered eligible with his qualification as B.Sc. Agriculture and was sure that respondents would not insist on the qualification to be B.Sc. Agriculture (Hons.).

In view of the above, the writ petition is disposed of with the following directions:-

(i) The State Government is directed to constitute an Expert Committee on the lines of the order dated 17.11.2014 passed by the Division Bench in LPA No.1638 of 2014. Let this Committee be constituted within one week from the date of receipt of certified copy of this Order.

(ii) The Expert Committee so constituted shall examine firstly as to if the petitioner with his qualifications as B.Sc. Agriculture with Degree (P2 colly) is entitled to be considered as eligible and fulfilling the qualifications as prescribed for the post in question i.e. B.Sc. Agriculture (Hons.). While giving its expert opinion on this issue, the Expert Committee is also directed to examine the judgment of the Division Bench dated 30.10.2015, the letter dated 20.10.2015 written by the Additional Chief Secretary to Govt. Haryana and also the affidavit dated 29.10.2015 filed by Dr. Meenakshi Dahiya, Joint Director, Directorate of Agriculture, Haryana. Secondly, the Expert Committee may examine and consider the issue and give its opinion as to if the petitioner with his detailed marks certificates (P2 colly) is to be treated qualified and fulfilling the requirement of the qualifications prescribed for the post in question i.e. Degree in B.Sc. Agriculture (Hons.) with Horticulture as one of the subjects.

(iii) From the judgment dated 30.10.2015, it can be seen that in the affidavit filed by the Government, it was mentioned that the Government has taken a decision after taking the report from AIU and ICAR. Accordingly, the competent authority, while constituting the Expert Committee, will look into the desirability of appointing the members of the Expert Committee keeping in view the observations given by the Division Bench.

(iv) At this stage, it is appropriate to notice that this Court has taken a decision to issue directions for constitution of the Expert Committee, in view of the peculiar facts and circumstances as noticed above and also the fact that there are divergent expert opinions *inasmuch* as the one which was given by the experts as reflected in the affidavit and letter of the Govt. dated 29.10.2015 and 20.10.2015 *vis-à-vis* the remarks of the expert relied upon by respondent No.3 in their written statement and as also orally submitted by counsel for respondents No.3&4 regarding some another expert committee.

(v) The Expert Committee is expected to decide the issue as expeditiously as possible preferably within 6 weeks from the date of its constitution.

(vi) This Court has been informed and is not disputed that the petitioner had appeared in the written test. The written test was the test for shortlisting the candidates to be called for interview. Under the interim orders of this Court dated 08.10.2020, the petitioner had participated in the interview process also. However, 2 posts reserved for ESM general category have not been filled up till date. It is further clarified by the respective counsel that the Commission has sent its report/recommendation, however, the final appointment letters have not been issued to the next category i.e. dependent of ESM under the main ESM category. In view of the above, one post of ESM category shall be kept vacant to await the conclusion of the exercise to be undertaken by the Government as indicated above.

(vii) Respondents No.1&2/competent authority may examine the recommendations of HPSC and accordingly pass further orders to appoint the petitioner in case he is found eligible after completion of

the above exercise on the issue indicated above. It is clarified that the competent authority would issue appointment letter to the petitioner in case the decision of the competent authority is favourable on the above issue and also if the competent authority finds the petitioner to be fulfilling all other requirements in accordance with law.

With these observations and directions, the writ petition stands disposed of.

So ordered.

02.03.2021
Shruti/Vvishal

(Girish Agnihotri)
Judge

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

Yes/No
Yes/No