

**In the High Court of Punjab and Haryana, at Chandigarh**

**Civil Writ Petition No. 27170 of 2017**

**Date of Decision: 20.04.2021**

Tanbir Singh

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Anil Kshetarpal.**

Present: Mr. Vikas Singh, Advocate  
for the petitioner.

Ms. Maloo Chahal, Deputy Advocate General,  
Punjab for the respondents.

**Anil Kshetarpal, J.**

Through this writ petition, the petitioner assails the correctness of the order dated 27.10.2017 whereby a decision has been taken not to retain him in service as respondents, on verification of the testimonials, have found that he does not possess the required minimum qualification for the post because his graduation degree has been found to be fake.

The petitioner was given employment on 24.12.2015 as a Clerk on compassionate basis as his father, who was working as an Inspector, died on 15.03.2001. The petitioner, at the time of employment, claimed that he is a commerce graduate from EIILM University, Sikkim. In the appointment letter, it was clarified that the appointment is subject to the verification of the documents submitted including the educational qualification and if found to be forged, the appointment letter will be cancelled without issuing any show

began an exercise to verify the correctness of the degree submitted by the petitioner. In response to the communication sent by the department, the Directorate of Higher Education, Government of Sikkim, vide a letter dated 21.10.2017, informed that the name of the petitioner is not present in the EIILM University's record available with the Directorate of Higher Education, Government of Sikkim. On receipt of the aforesaid information, the petitioner was served with a show cause notice to which he filed a reply. However, since the petitioner failed to prove that he has the minimum qualification as required, therefore, his services were dispensed with and the appointment letter itself was ordered to be cancelled.

Pursuant to the notice of motion, a reply has been filed and the writ petitioner has also filed a replication.

This Bench has heard the learned counsel for the parties at length and with their able assistance, perused the paper-book.

Learned counsel representing the petitioner submits that the petitioner passed his graduation in commerce in June, 2012 and since the petitioner got admission before the year 2010 from the University through Distance Education Mode, therefore, in view of the judgment passed in ***Karamjeet Kaur v. State of Punjab and Others 2019 (3) SCT 162***, the services of the petitioner could not be dispensed with. He further contends that as per the Punjab Roadways (Ministerial) State Services Class-III Rules, 1977 (hereinafter referred to as "the 1977 Rules"), the minimum qualification for the post of Clerk is matriculation and therefore, the petitioner is even otherwise qualified to be appointed. He further submits that the Punjab Civil Services (General and Common Conditions) Rules,

1994 (hereinafter referred to as “the 1994 Rules”) would have no application since there are specific departmental rules governing the case.

Per contra, learned counsel representing the respondents contends that the graduation degree of the writ petitioner has been found to be forged and it is not a case of non-recognition of the University. She further contends that in view of Rule 20 of the 1994 Rules, which starts with a *non-obstante* clause, the minimum educational qualification for appointment to the post of clerk is graduate and not matriculation.

Having analyzed the arguments of the learned counsel for the parties, this bench now proceeds to evaluate the same.

A copy of the appointment letter of the petitioner has been produced as Annexure P1. Clause 3 and 4 (relevant parts) are read as under:

“3. *Your appointment is on the basis of the below mentioned conditions:*

(a) to (d) XXXX XXXX XXXX XXXX

(e) *Your services will be under the Punjab Roadways (Ministerial State Service Class-III) Rules, 1999 as well as the Punjab Civil Services Rules and the instructions issued by the State of Punjab from time to time.*

4. *In addition to the above, the appointment is subject to the below mentioned conditions:-*

1) *You will have to produce a medical fitness certificate from the concerned Medical Superintendent for government service.*

- 2) *You shall give attested copies of the educational qualification and computer qualification to the concerned office and will also show the original certificates. Your certificate will be got verified from the concerned department. If your certificates regarding educational qualification or computer qualifications are found to be forged then your services can be dispensed with without any notice and legal action can be taken against you. If the University is not found to be recognized in that situation also without issuing any show cause notice, the appointment letter can be cancelled”.*

It is being claimed that the petitioner possesses a degree of B.Com from the Eastern Institute for Integrated Learning of Management University, Sikkim after having passed the examination held in June 2012. The respondent-authorities, on verification of the academic qualification, found that the graduation degree produced by the petitioner is not genuine as his name is not available in the registration record of the said University as available with the Directorate of Higher Education, Government of Sikkim. The petitioner, apart from producing the copy of degree, has not produced any other material to prove that he is in fact a graduate. In such circumstances, once the petitioner does not possess the required academic qualification and has got his appointment by giving false information, then, he cannot claim protection from the Court. The judgment in ***Karamjeet Kaur (supra)*** is with respect to a degree obtained by a student through

Distance Education Mode from a Deemed University/private university.

Hence, the aforesaid judgment has no application to the present case.

Next argument of learned counsel for the petitioner also does not have any substance because no doubt, as per the 1977 Rules, the minimum educational qualification for the post of Clerk is matriculation with second division or having passed a senior secondary part-II examination from a recognized university or institution. However, as per the 1994 Rules, the minimum qualification for the post of Clerk under the Punjab Government is Bachelor's Degree from a recognized University or Institution. Rule 15, which has been amended in the year 2009, reads as under:

***“15. Minimum Educational and other qualifications:***

- (i) No person shall be given direct appointment to the post of Clerk under the Punjab Government unless he possesses the Bachelor's Degree from a recognized University or Institution; and*
- (ii) Possesses at least one hundred and twenty hours course with hands on experience in the use of Personal Computer or Information Technology in Office Productivity applications or Desktop Publishing applications from a Government recognised institution or a reputed institution which is ISO 9001 certified”.*

Rule 20 of the 1994 Rules starts with a non-obstante clause and therefore, has been given an overriding effect and consequently placed at a higher pedestal. Rule 20 *ibid* reads as under:

*“The provisions of these rules shall have effect notwithstanding anything contrary contained in any rules for the time being in force for regulating the requirement and conditions of service for appointment to public service and post in connection with the affairs of the State”.*

Once Rule 20 *ibid* has been given an overriding effect, then the argument of the learned counsel representing the petitioner that the 1977 Rules would be applicable and not the 1994 Rules cannot be accepted.

Keeping in view the aforesaid facts, once the petitioner has been found to be lacking the minimum qualification required for the concerned appointment, then the order passed by the authorities cannot be interfered with.

In view of the above, the writ petition is dismissed.

**(Anil Kshetarpal)**  
**Judge**

**April 20, 2021**  
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No