

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

LPA No.559 of 2021 (O&M)

Reserved on : 15.02.2022

Pronounced on: 07.03.2022

Sumit Chawla

... Appellant

Versus

State of Haryana & others

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present:- Mr.Ravinder Malik (Ravi), Advocate
with Mr.A.S.Balyan, Advocate
and Mr.Abhishek Bansal, Advocate, for the appellant.

Ms.Palika Monga, DAG, Haryana.

G.S. Sandhawalia, J.

The present Letters Patent Appeal, filed by the appellant-writ petitioner, is directed against the impugned judgment passed by the Learned Single Judge in CWP-21463-2020 on 21.01.2021 wherein the claim for appointment to the post of District Information & Public Relation Officer under the Information & Public Relation & Language Department, State of Haryana was rejected by the Learned Single Judge on the ground that the appellant-writ petitioner was ineligible for the said post. The reasoning given was that as per the advertisement dated 10.09.2015, 8 posts which were increased to 10 by way of corrigendum, had to be filled up by persons who apart from possessing the essential qualifications would have to have a 2 years media experience in the National Daily Newspaper or Television Channel or Publicity Organization of Government or Public Undertaking or University.

The case of the appellant-writ petitioner is that he has 2 years experience as a Reporter in 'Pal Pal Newspaper' which is stated to

be published from Sirsa, Haryana which was held not to be sufficient to conclude that 'Pal Pal Newspaper' was a National Daily and therefore, the decision of respondent No.3 wherein it was held that the appellant-writ petitioner was ineligible for the post in question, was upheld. The Learned Single Judge had rejected the claim of the appellant-writ petitioner though the recommendation had been made in his favour by the Haryana Public Service Commission. Therefore, it is argued that he had the essential qualifications and had topped in the merit-list and thus, the appointing authority failed to examine the eligibility of the appellant-writ petitioner against the back-drop of the essential qualifications prescribed in the advertisement.

Counsel for the appellant has thus argued that the Learned Single Judge was not justified and erred in giving his own opinion regarding the parlance as to what is a 'National Daily Newspaper' as there was no definition since the counsel had admitted that distribution of 'Pal Pal Newspaper' was confined to the State of Haryana and to certain parts of Rajasthan. The rationality, by applying the said principle as viewed from a prudent mind and in common parlance, had been exercised by the Learned Single Judge but since the expert body i.e. Haryana Public Service Commission had forwarded the name of the appellant-writ petitioner for appointment, the same should not have been done. Reliance has been placed upon the Division Bench judgment of the Rajasthan High Court in **Rajasthan Public Service Commission & others Vs. Meetha Nath alias Meethesh Nirmohi 1993 SCC Online**

Raj 644 wherein the Division Bench had held that there were no rules prescribing as to which newspaper is State Level and which is of National Level and keeping in view the fact that the Learned Single Judge had allowed the writ petition, it had been directed that the writ-petitioner should be given appointment to the post of Public Relation Officer. It has also further been pointed out that directions had been issued that the State Government should frame appropriate rules prescribing norms, scales and standards for grant of a status to the Newspaper to be classified as National Level Newspaper or State Level Newspaper or District Level Newspaper, while upholding the judgment of the Learned Single Judge.

It is further pointed out that written statement had never been filed by the State and the connected matter filed bearing CWP-15999-2020 titled *Savita & others Vs. State of Haryana & others*, in which the appellant-writ petitioner had been arrayed as respondent No.6, had also been referred to in the writ petition but the Learned Single Judge had dismissed it at the initial stage itself.

State Counsel, on the other hand, has pointed out that even the appointment of the petitioner was subject matter of challenge in Savita (supra) and an interim order has been passed on 01.10.2020 that his appointment shall remain stayed till the next date of hearing.

Keeping in view the fact that the writ petition was decided without calling upon the reply, State has filed a short affidavit to rebut the pleadings advanced by the appellant-writ petitioner. It has also been averred that the appellant-writ petitioner has done his Post-Graduation in

MA (Mass Communication) from Kurukshetra University, Kurukshetra in the year 2005. Similarly, he has done his M.Phil (Mass Communication) in 2007 and passed his Bachelors of Law in the year 2008 and thus, he was pursuing more than one professional course at the same time. Objection has also been taken that Haryana Public Service Commission has not been arrayed as a respondent and that 'Pal Pal Newspaper' was not a National Daily Newspaper and therefore he did not have the requisite experience and he was only getting a nominal honorarium of Rs.3000/- per month.

A perusal of the paperbook would go on to show that recruitment to the post of District Information & Public Relation Officer under the Information & Public Relation & Language Department, State of Haryana was governed by the Haryana Public Relations Department (Group B) State Service Rules, 1997. 50% of the posts were to be filled up by promotion whereas for the balance 50%, the mode of recruitment is by way of Direct Recruitment, as per Rule 7 Appendix B and as per the amendment made on 30.10.2001. Same reads as under:

“Method of Recruitment

9. (1) Recruitment to the service shall be made:-

(a) to (e) xxxxxxxx

(f) in the case of Public Relations Officer [including Public Relations Officer (Research & Reference), District Public Relations Officer]:-

(i) 50% by promotion from amongst Superintendents (District Cadre);

OR

Assistant Public Relations Officer, Assistant Public Relations Officer (Publication), Assistant Information Officer, Assistant

Editor, feature Writer, Copy Writer, Cataloguer, Librarian, Senior Evaluator;
OR
Staff Reporter, Display Assistant, District Publicity Organiser, Assistant Editor (Patrika); and
(ii) 50% by direct recruitment; or
(iii) by transfer or deputation of an officer already in the service of any State Government or the Government of India;
(g) to (aa) xxxxxxx

APPENDIX-B
(see Rule 7)

(1) to (5) xxxxxxx

Sr. No.	Designation of Posts	Academic Qualifications and Experience, if any, for Direct Recruitment or by Transfer	Academic Qualifications and Experience, if any, for appointment by Promotion
6.	Public Relations Officer [including Public Relations Officer (research and reference), District Public Relations Officer]	ESSENTIAL (i) Master's degree in Mass Communication or Journalism from a recognized university and two years media experience in a National Daily Newspaper or Television Channel or Publicity Organization of Government or Public Undertaking or University; OR M.A. (Hindi or English) from a recognized university and one year Post Graduation Diploma in Mass Communication or Journalism and two years media experience in a National Daily Newspaper or Television Channel or Publicity Organisation of Government or Public Undertaking or University; Note:- The required experience should be after attaining the requisite qualifications. (i) Hindi upto Matric Standard Desirable (i) Experience of media writing; (ii) Proficiency in use of computer (word Processing); (iii) Proficiency in English Writing; (iv) Specialisation in Public Relations at Master's Degree level.	(i) Five years experience as Superintendent (District Cadre) provided they are Graduate; or (ii) Assistant Public Relations Officer (Publication), Assistant Information Officer, Assistant Editor, Feature Writer, Copy Writer, Cataloguer, Librarian, Senior Evaluator with five years experience provided they are Graduate; or (iii) Staff Reporter, Display Assistant, District Publicity Organiser, Assistant Editor (Patrika) with six years experience, provided they are Graduate.

The definition of a 'National Daily Newspaper' which the appellant-writ petitioner claims to have is on the strength of a certificate issued on 06.10.2015 (Annexure P-2) was further relied upon along with another certificate dated 07.09.2020 (Annexure P-3) from the same newspaper wherein his experience was stated to be from 01.05.2013 to 31.12.2015 as a Reporter in Kaithal and earning Rs.3000/- per month as honorarium. The said newspaper was stated to be having a Certificate of Registration with the Government of India, Office of the Registrar of Newspapers for India dated 04.06.2013 (Annexure P-4) having its place of publication in Plot No.109, HSIDC, Hisar Road, Sirsa, Haryana. It is accordingly submitted that in the writ petition filed by Savita (supra), the defence of the respondents was that it was for the Public Service Commission to decide the eligibility as well as selection of a candidate for a particular post and as per the written statement (Annexure A-1) filed. Thus, it was not for the Learned Single Judge to superimpose his opinion, keeping in view the fact that there was no definition of a 'Daily Newspaper' and as to what is the criteria to define a 'Daily Newspaper'. It is submitted that information had been sought for under the Right to Information Act, 2005 from the Department and as per the same, the meaning and definition of the 'National Newspaper' was not available with them also.

It is a matter of record that vide advertisement No.2 dated 10.09.2015, the posts in question had been advertised. The same are stated to be in the scale of Rs.9300-34800+GP Rs.4800+200 Special Pay

and in pursuance of the said advertisement, petitioner had taken the written test and having secured the highest marks amongst the recommendees had also been interviewed by the HPSC. The result had then been declared on 18.09.2020 and as per the table reproduced below, petitioner was the topper amongst the General Category:

Sr. No.	Roll No.	Name	Cat.	Cat. considered	Written marks (out of 75)	Personal achievement (out of 12.5)	Interview marks (out of 12.5)	Total marks (out of 100)
2.	22291	Sumit Chawla	Gen.	Gen.	41.670	6.5	6	54.17
3.	22279	Satyapal Singh			37.118	8.5	5.7	51.3175
4.	22162	Sonia	Gen.	Gen.	33.330	10	6.25	49.58
5.	22276	Rajan Sharma	Gen.	Gen.	31.815	8	9	48.815
6.	22198	Manoj	Gen.	Gen.	34.088	7	7.125	48.2125
7.	22197	Aditya Chaudhary	Gen.	Gen.	32.573	8	7.15	47.7225

In such circumstances, in the considered opinion of this Court, prima facie the petitioner was not liable to be declared ineligible only on account of a report of the Committee set up by the Department after the names had been sent by the Commission after doing the necessary exercise of selection. A perusal of the report of the Committee which has been appended as Annexure P-1 would go on to show that the same was headed by the Deputy Director of Establishment along with the

Accounts Officer, Liasoning Officer and a Superintendent and only on checking of the documents, in view of the recommendation letter dated 22.09.2020 of the Commission, petitioner was held not eligible on account of the fact that the 'Pal-Pal' was not a national newspaper. Provisional appointments were recommended qua other candidates without giving any details regarding their experience. This was an exercise which should have been obtained from the Commission rather than by the Committee to delve into the issue as to whether the petitioner had the necessary qualifications as per the rules.

A perusal of the letter dated 22.09.2020 (Annexure R-3) whereby the names had been forwarded would go on to show that the Commission had interviewed and recommended the candidates on the basis of the photocopies of the documents submitted by them. The educational qualifications, experience and the original degrees and certificates were to be checked by the Department. Counsel for the State has heavily relied upon Clause 3 of the said letter to submit that it was open to the Department to reject and not appoint the petitioner. Said clause reads as under:

“3. The Commission has interviewed and recommended these candidates on the basis of Photostat copies of documents submitted by them alongwith their application forms. The documents of the candidates have not been verified by the commission. Before giving them offer of appointment, their original degrees/certificates may be checked with the Photostat copies of documents available with their application forms and ensure that they fulfil all the conditions of educational

qualifications & experience etc as prescribed for the posts in the requisition and the relevant Service Rules. The Candidates recommended have not been medically examined and no special enquiry into their antecedents has been made by the Commission.”

In the considered opinion of this Court, the said clause is for checking and verifying the original degrees and certificates and not the eligibility criteria which is prescribed under the Rules. It was for the respondent-Commission rather to undertake the exercise whether the petitioner was eligible under the said Rules and give its recommendations being the expert body. Unfortunately, the Commission was not arrayed as a party respondent. It is not disputed that the petitioner also mentioned regarding the pendency of CWP-15999-2020 but the Learned Single Judge had chosen not to take the writ petition of the appellant along with the said case and rather chose to dismiss the same without calling for the reply. In such circumstances, in the considered opinion of this Court, it would have been more appropriate for the Learned Single Judge to have heard both the cases together since in the said writ petition, the Haryana Public Service Commission was also arrayed as respondent No.3 and therefore, the opinion of the Commission which is essentially an expert body, would have also come forth for proper assistance of the Court.

A Five Judges Bench in **Mohammad Shujat Ali & others Vs. Union of India & others (1975) 3 SCC 76** has held that the Court on an uninformed data and unaided by technical insights would not interfere with the decision of the Government which is based on the recommendations of the expert body. Relevant portion of the judgment

reads as under:

“14. It must be noted that the question in regard to equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standard, and practical attainments of such qualifications and where the decision of the Government is based on the recommendation of an expert body which possesses the requisite knowledge, skill and expertise for adequately discharging such a function, the Court, uninformed of relevant data and unaided by the technical insights necessary for the purpose of determining equivalence, would not lightly disturb the decision of the Government.”

Similarly, in **State of Rajasthan Vs. Lata Arun (2002) 6 SCC 252** it was held by the Apex Court that it was for the Appropriate Authority to decide whether a particular educational qualification should or should not be accepted to be equivalent to the qualification prescribed by the authority.

Similar view has been taken by the Apex Court in **Devender Bhaskar & others Vs. State of Haryana & others 2022 (1) SCT 51** wherein it has recently been held that it is not for the Court to substitute its opinion on the issues of equivalency and it should be best left to the expert bodies like the Universities.

Keeping in view the said observations, we are of the considered view that the view of the expert committee namely the Haryana Public Service Commission which was the selecting body and which had recommended the names, should have been taken into consideration by the Learned Single Judge before rejecting the case of the

appellant in limine.

In such circumstances, this Court is of the opinion that the order of the Learned Single Judge is not sustainable and the same is accordingly set aside and CWP-21463-2020 is restored to its original number and ordered to be heard along with CWP-15999-2020 which is now stated to be pending for 27.07.2022. It will be imperative to the appellant to implead the Haryana Public Service Commission as respondent before the Learned Single Judge.

The present appeal is allowed in the above-said terms.

(G.S. SANDHAWALIA)
JUDGE

March 7th, 2022
Sailesh

(VIKAS SURJ)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No