

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

LPA No.462 of 2022(O&M)

Date of decision: 19.07.2022

Deepak Kumar

... Appellant

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. Parmod Chauhan, Advocate,
for the appellant.

ARUN PALLI, J.

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 21.01.2020, vide which the petition filed by the appellant for quashing the appointment of respondent No.4 to the post of System Analysts, and for a direction to the authorities to appoint him on the said post, has since been dismissed.

Learned counsel for the appellant submits that vide advertisement dated 03.07.2014, applications were invited by Haryana Vidhan Sabha Secretariat to fill up a single post of System Analysts. The appellant along with others competed for selection to the said post. Result of the eligible candidates was declared by the authorities on 19.08.2014, as per which respondent No.4, who had obtained 50 marks, was assigned Rank 1 and another candidate (Suman Chaudhary) with 37 marks was at the 2nd position, whereas the appellant, who scored 32 marks, was assigned the 3rd position in the merit list. In reference to the letter dated 25.02.2008 (P-1), he

submits that apart from a candidate being B.E./B.Tech/ M.Tech. (Com.Sc./IT/Electronics & Comm./Mechanical/Electrical) or M.Sc. (Comp.Sc.) or MCA or B/C Level course from DOE, he/she was also required to possess a degree in MBA (1st Divn.), but as neither respondent No.4 nor Suman Chaudhary possessed the said qualification, they were ineligible to even apply and compete. Whereas, the appellant being fully eligible and next in merit ought to have been appointed.

Ex facie, the grievance being made by the appellant in reference to the letter dated 25.02.2008 (*ibid*), and contend that as respondent No.4 had not qualified MBA, his appointment, per se, was invalid, is misconceived. A bare analysis of the letter dated 25.02.2008 (*ibid*) reveals that as some additional posts, to implement an IT Project in the Haryana Vidhan Sabha, were sought to be created, a proposal was sent to the Chief Secretary to the Government with proposed designations, pay-scales and qualifications for the said posts for obtaining necessary approvals/sanctions. It is in reference to the proposed qualifications to fill up the post of System Analysts/IT Officer, it is being contended that other than the requisite degrees/qualifications, specified in the advertisement, it was mandatory for a candidate to even possess a degree in MBA (1st Divn.).

We wonder as to how on the basis of proposed qualifications to fill up the posts that were sought to be created, it could even be alleged that possessing a degree in MBA (1st Divn.) was essential/mandatory for making appointments, pursuant to an advertisement dated 03.07.2014. Significantly, Rule 8 of Haryana Vidhan Sabha Secretariat Service Rules, 1981, read with Appendix B, which concededly govern the recruitment and condition of service of persons appointed to the Haryana Vidhan Sabha Secretariat

Service, show a degree in MBA (1st Divn.) is mandatory only for those candidates who possessed B/C level course from DOE in 1st Divn:

5.	System Analyst	(i)	B.E./B.Tech./M.Tech. (Computer Science/ Information Technology/ Electronics and Communication/Mechanical/Electrical) in 1 st Division. Or B/C Level course from DOE in 1 st Division along with MBA in 1 st Division;	By Promotion: - (i) B.E./ B.Tech./ MCA Ist Div. (ii) Five years experience as Junior Programmer.
		(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.	

Thus, qualification of MBA was required only for person who had qualified the B/C Level course from DOE in the 1st Division. The qualification of MBA in 1st Division was not required for persons having the qualification of BE/B.Tech/M.Tech (Computer/Information Technology, Electronics and communication/ Mechanical/Electrical) in 1st Division or M.Sc. in Computer Science in 1st Division or MCA in 1st Division. Needless to assert, the use of word **“OR”** between the various qualifications prescribed at Sr. No.5 of Appendix B make it apparent that the Rule is disjunctive. And as shall be crucial to point out here, respondent No.4 possessed Master’s degree in Computer Applications in 1st Division.

In the wake of the above, we are dissuaded to interfere in the impugned order and judgment rendered by the learned Single Judge. The appeal being bereft of merit is, accordingly, dismissed.

(Ravi Shanker Jha)
Chief Justice

(Arun Palli)
Judge

19.07.2022

Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO