

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

CWP-15391-2020

Date of decision : 07.12.2022.

Santosh Kumar

... Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Surender Pal, Advocate for the petitioner.

Mr. Narender Singh Behgal, AAG, Haryana.

Mr. Kinshu Mittal, Advocate for
Mr. Hitesh Pandit, Advocate for respondent No.3/HSAMB.

Anupinder Singh Grewal, J. (Oral)

The petitioner is seeking a direction to the respondents to appoint him to the post of Mandi Supervisor-cum-Fee Collector.

Learned counsel for the petitioner submits that the petitioner, who had applied for the post of Mandi Supervisor-cum-Fee Collector (category No.17) against advt. No.07/2015, had secured 110 marks in ESM (General) category while the last selected candidate in this category had secured 101 marks. The petitioner meets the eligibility criteria including six months computer course which he had done at Thapar Institute of Engineering and Technology. A copy of the certificate is at Annexure P-8. The respondents have erroneously rejected the candidature of the petitioner although the aforesaid Institute is a deemed University and in the list of recognized institutes/colleges affiliated to the Universities constituted under the State/Central Act finds

mention. The petitioner had earlier preferred a writ petition bearing CWP No.21885 of 2018 which was disposed of along with CWP No.20394 of 2018 on 14.11.2018 in view of the reply filed by the respondents wherein the list of recognized Institutes had been set out.

Learned State counsel, however, submits that the Thapar Institute of Engineering and Technology, is not a recognized Institute and does not find mention in the list which had been submitted before this Court in CWP No.20394 of 2018 including CWP No. 21885 of 2018, on 14.11.2018. This list is also set out in the reply filed by respondent No.2. He, upon instructions, also submits that there is no vacant post under the ESM (General) category while 13 posts under EBPGC category have been kept vacant in pursuance to the order passed by this Court in another matter.

Learned counsel for the petitioner has relied upon the judgment of a Coordinate Bench of this Court in the case of the **Sumit versus Haryana Staff Selection Commission**, bearing CWP No.10860 of 2020, decided on 05.10.2021 wherein it had been held that in case no vacancy is available, a supernumerary post may be created to be adjusted in future vacancy.

Heard.

The petitioner had applied for the post of Mandi Supervisor-cum-Fee Collector in response to the advertisement No.7/2015, dated 10.07.2015, issued by the respondents on 10.07.2015 (Annexure P-1) wherein 126 post of Mandi Supervisor-cum-Fee Collector have been advertised on Category No.17 stating the following essential qualifications:-

“ 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 or higher education.”

The petitioner was declared ineligible on account of not having the requisite six months's certificate in computer course. He, thereafter, preferred CWP No. 21885 of 2018 which was disposed of along with CWP No. 20394 of 2018, on 14.11.2018, on furnishing a list of the Institutes by the State which were recognized for computer courses for the post of Mandi Supervisor-cum-Fee Collector. The petitioner had been provisionally interviewed in terms of the interim order passed by this Court in CWP No.20394 of 2018. The petitioner had obtained 102 marks in the written examination and 08 marks in the interview, making it a total of 110 marks. The last selected candidate in ESM (General) category has obtained 101 marks. The list of the Institutes which are recognized for conducting the computer course is reproduced hereunder:-

“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). (emphasis supplied)

15. PGDCA issued by University.

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

Item No.14 of the aforesaid list stipulates that the computer diploma issued by the colleges affiliated to or recognized by the Universities framed under the State or Central Act would be considered valid.

The petitioner had completed six months' course in Computer Programming (DOS, Windows, FOXPRO, Basic and MS office) from Thapar Institute of Engineering and Technology. The Thapar Institute of Engineering and Technology had been declared as a deemed to be University under Section 3 of the University Grants Commission Act, 1956 vide letter No.F.9-12/84-U.3 dated 30.12.1985 as mentioned in Annexure P-10.

Therefore, the six months computer course undertaken by the petitioner would meet the qualification set out in the advertisement. The petitioner has secured 110 marks while the last selected candidate in ESM

(General) category has secured 101 marks. In response to a query of this Court as to whether any post is vacant, learned State counsel submits that there is no post under the ESM (General) category while 13 posts in EBP GC category have been kept vacant in pursuance to the order passed by this Court in another matter.

The appointments in pursuance to the selection are stated to have been made in the year 2019. I find it inequitable to oust a selected candidate after three years. This Court in the cases of **Sumit versus Haryana Staff Selection Commission (supra)** and **Vikram versus State of Haryana and others**, bearing CWP No.9637 of 2021, decided on 25.08.2022 had in somewhat similar circumstances directed that in case no vacancy is available, a supernumerary post be created to be adjusted in future vacancy.

Consequently, the petition is allowed and the respondents are directed to adjust/appoint the petitioner to the post of Mandi Supervisor-cum-Fee Collector against the supernumerary post to be created against a future vacancy. The petitioner will also be entitled to the notional benefits from the date other successful candidates had been appointed against the said post after redetermining his merit. The needful will be done within a month from the date of receipt of certified copy of this order.

(ANUPINDER SINGH GREWAL)
JUDGE

December 07, 2022
sonia gugnani

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No