

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

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CWP No.13968 of 2017 (O&M)
DATE OF DECISION : 14th July, 2022

Rahul Sharma

.... Petitioner

Versus

**The Chandigarh Administration, Union Territory, Chandigarh
through the Secretary, Department of Local Government, UT
Chandigarh & others**

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Gaurav Sharma, Advocate for the petitioner.

Mr. Jagjot S. Lalli, Advocate for respondents No.2 & 3.

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RAJBIR SEHRAWAT, J. (Oral)

1. The petitioner has filed this petition under Articles 226 & 227 of the Constitution of India, for issuance of an appropriate writ or order for quashing the order dated 30.01.2017 (Annexure P-8) vide which the claim of the petitioner for appointment as Class-IV employee has been rejected and for directing the respondents to appoint the petitioner as Class-IV employee in view of the instructions issued by the respondents from time to time; along with certain other prayers.

2. The case as pleaded in the writ petition is that father of the petitioner had joined service as *Beldar* with respondent-Chandigarh Administration on 03.05.1979 and continued to work as such. However, father of the petitioner expired on 13.06.2013. As per the policy issued by the Central Government, which is followed by the respondent, the petitioner is required to be appointed on compassionate ground.

However, the case of the petitioner has wrongly been rejected by the respondents vide order dated 30.01.2017 (Annexure P-8). Hence, the present petition.

3. Arguing the case learned counsel for the petitioner has submitted that the respondents have rejected the case of the petitioner on the ground that he does not possess the requisite educational qualifications. However, the policy contains a clause enabling the respondents to relax the qualification. Therefore, the qualification should have been relaxed for the petitioner, keeping in view the severe economic condition of the family of the petitioner. Hence, the respondents have not considered the case fairly and judiciously. The impugned order deserves to be set aside and the respondents deserve to be ordered to offer appointment to the petitioner.

4. On the other hand, the counsel for the respondents-UT has submitted that the case of the petitioner has rightly been rejected by the respondents. Of course, there is clause in the policy enabling the competent authority to relax the educational qualification in deserving cases. However, there are limits and conditions prescribed for such relaxation. The relaxation can be considered by the respondents only in case of deserving cases; and in case the applicant is ready to furnish an undertaking that he/she will acquire the prescribed qualification within a period of two years. However, in the present case the petitioner is only 5th class pass as per the record whereas the minimum prescribed qualification for Group-D post is Middle class pass. Therefore, even if the petitioner so desired, he could not have acquired the requisite minimum prescribed education qualification within a period of two years.

Hence, the relaxation has rightly not been granted. The counsel has further submitted that the petitioner is not the only person qua whom such order has been passed. All similarly situated persons have been equally treated and their cases have been rejected for the same reason of non-fulfillment of the educational qualification.

5. Having heard the counsel for the parties, this court does not find anything illegal or perverse in the order passed by the respondents. The reliance of the petitioner qua relaxation of the qualification is on sub-Clause (b) of Clause 5 of the policy which reads as under:

5. *The relaxation allowed are:-*

(a) *Xxxx..... Xxxx.....*

(b) *Educational qualifications can be relaxed for Group 'D' and lower Division Clerk posts, if the family is facing severe hardship and the incumbent undertakes to acquire the qualification within two years.*

(c) *Xxxx..... Xxxx.....*

A bare perusal of the above said clause shows that the respondents could have considered relaxation of qualification subject to the petitioner giving undertaking to acquire the qualification within two years. However, the difference of the requisite number of years between the 5th class and the 8th class, which is the minimum required educational qualification, itself is three years. Hence, the petitioner could not have acquired the qualification within a period of two years; by any means. Therefore, the respondents could not have validly relaxed the qualification even if they so desired. Any relaxation of qualification in

case of the petitioner would have been in violation of the mandate of the policy prescribed for the said purpose.

6. In view of the above, finding no merits in the present petition the same is dismissed.

14th JULY, 2022
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>