

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

104

**RSA-2092-1992(O&M)
Date of decision: 02.11.2023**

SURESH KUMAR

..Appellant

Versus

**HARYANA STATE ELECTRICITY BOARD
AND ORS**

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S. Randhawa, Advocate
for the appellant.

Mr. Abhishek Arora, Advocate
for Mr. Sumit Jain, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. In this second appeal, the correctness of the judgment passed by the learned First Appellate Court is assailed by the plaintiff.
2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.
3. A recruitment notice was issued by Haryana State Electricity Board to invite applications for the post of Assistant Line Man in the year 1986.
4. As per the Service Rules, the candidate was required to pass the matriculation examination. However, the appellant was appointed and he join the service. Subsequently, his services were dispensed with in the year 1987. He along with 17 other candidates filed CWP-830-1987. In that writ petition, interim order was passed. However, subsequently, in the year 1989,

the services of the petitioners were terminated by passing a fresh order on the ground that he does not possess the minimum qualification. He challenged the correctness of the aforesaid order by filing a civil suit. The trial Court vide judgment dated 27.11.1991 held that the appellant did not possess the minimum qualification, however, the Court held that if the plaintiff produces matriculation certificate at this point of time, he will still be eligible to continue in service. The learned trial Court while interpreting the circular dated 30.06.1986 issued by the respondent-Board held that the candidate was not required to be matriculate particularly when 25% of the Assistant Lineman reserved for persons having the following qualification:-

“Technical qualification i.e. matric ITI (Electrical) or two years vocational course conducted by Director ITI Haryana may be filled up from the work charged T/Mates/Apprentice L.M./Daily wages workers already in the services of the Board and possessing the requisite qualification as mentioned above.”

5. However, the First Appellate Court has held that the appellant has not passed two years vocational course conducted by the Director, I.T.I., Haryana but has passed two years course of Trade Wireman conducted by National Council for Training in Vocational Trades and therefore, it is evident that the plaintiff did not possess the requisite qualification at the time of his selection in the service as per the circular. Hence, the first appeal filed by the Haryana State Electricity Board was allowed. It was held that the trial Court was wrong in issuing such directions regarding being eligible to continue in service despite not having the qualification for being selected as an Assistant Lineman. This appeal was admitted for regular hearing. During the pendency of the appeal, the writ petition filed by 18 candidates including the petitioner was allowed by taking a sympathetic view.

6. The operative part of the order reads as under:-

“In these circumstances, we find no merit in the petition but while dismissing it, we direct that let the appointment order of respondent No.4 be reviewed and if he is eligible to be retained on the basis of a Board’s circular then he be allowed to continue and otherwise let this seat be filled on the basis of the merit list prepared in the interview. Dispose of accordingly.”

7. The learned counsel representing the appellant contends that the First Appellate Court has erred in reversing the judgment of the trial Court. he submits that the appellant passed the matriculation examination in the year 1987 and therefore, he is entitled to be reinstated in service as per the circular.

8. This Court has considered the submissions of the learned counsel representing the parties.

9. Admittedly, even on the last date for the submission of the application, the appellant did not fulfill the minimum qualification required for the post of Assistant Lineman. Further, on the date of his appointment also, he did not meet the required minimum qualification. The Court in such cases should not extend the cut-off date. Moreover, when the writ petition came up for hearing, the learned counsel representing the appellant failed to inform the Court that since 1989 the appellant is no longer in service. In these circumstances, the order passed by the Writ Court qua the appellant cannot be operative. The First Appellate Court has taken a plausible view of the matter particularly when the appellant was not possessing the minimum qualification as provided in the rules and the recruitment notice.

10. He is no longer in service for the last 34 years.

11. Keeping in view the aforesaid facts, no ground to interfere is made out.
12. Dismissed accordingly.
13. All the pending miscellaneous applications, if any, are also disposed of.

November 02nd, 2023

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No