

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

**CWP No.10718 of 2018
Date of decision : 24.01.2023**

Sandeep Kumar

....Petitioner

Versus

Punjab Urban Development Authority PUDA and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. K.B. Raheja, Advocate
for the petitioner.

Mr. R.S. Khosla, Sr. Advocate assisted by
Ms. Bhavti Pujara, Advocate for
respondents No.1 and 2.

PANKAJ JAIN, J. (ORAL)

Present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of writ in the nature of certiorari for quashing of order dated 4th of January, 2018 whereby the respondent has cancelled the selection of the petitioner as Clerk-cum-Data Entry Operator for want of degree.

2. Respondent vide Public Notice (Anneuxre P-1) invited applications for filling up 73 post in the cadre of Clerk-cum-Data Entry Operator. As per the Public Notice, the required basic qualification reads as under :

“4. Clerk-cum-Data Entry Operator
(Category-wise break-up of vacancies to be filled)

Total	Gen	SC		BC	ESM			Freedom Fighter	Sports person		Handi-capped		
		Balmiki / Majbi Sikh	Other		Gen	SC	BC		Gen	SC	Visual	Deaf & Dumb	OPH
73	29	09	09	10	06	03	01	01	01	01	01	01	01

Basic qualification

- i) Bachelor's Degree from a recognized University or Institution; and
- ii) Possesses at least one hundred and twenty hours course with hands on experience in the use of Personal Computer or Information Technology Office Productivity Applications or Desktop Publishing Applications from a Govt. recognized institution or a reputed institution, which is ISO 9001 certified.

OR

Possesses a Computer Information Technology course equivalent to “O” Level certificate of Department of Electronics Accreditation of Computer Courses (DOEACC) of Govt. of India.”

3. The petitioner participated in the process and was selected however, he stands non-suited merely on the ground that he has not submitted the BSc.-IT Degree. Counsel for the petitioner submits that the petitioner had already completed his graduation course and supplied his Detailed Mark Sheet. He submits that case of the petitioner would be squarely covered by the observations made in **CWP No.54556 of 2022** titled as **Shailendra Kumar vs. Chief General Manager, Bharat Sanchar Nigam Ltd. New Delhi and others** wherein ratio of law laid down by the Apex Court in **Ashok Kumar Sharma, vs. Chandra**

Shekhar, 1993 Supp. (2) SCC 611 has been relied upon to observe as under :-

“3. The petitioner has passed his B.E. Examination. He applied against the advertisement to the post of Junior Telecom Officer. A copy of the said advertisement is enclosed as Annexure-1 to the writ petition. It was mentioned therein that only those candidates who have been declared passed and who have been Issued provisional degree/mark-sheet on or prior to 31.7.2002 could apply. The petitioner submitted his mark-sheet of B.E. Examination on 29.7.2002 with the relevant mark-sheet but the degree was submitted after 31.7.2002 because the degree was not available on or before 31.7.2002. However, although the petitioner was selected he was not given letter of appointment because he did not submit his degree prior to 31.7.2002, as it was not issued prior to 31.7.2002.

4. In our opinion, the respondents have taken an over-technical view of the matter. It is well known that after the examination, often mark-sheet is issued at an early date but the degree is often issued several months subsequently. The advertisement itself mentions that the applicant has to submit degree/mark-sheet on or prior to 31.7.2002. This means that if the mark-sheet is submitted on or prior to 31.7.2002, it will suffice.

5. Similar view has been taken by Supreme Court in the case of *Ashok Kumar Sharma and Anr. vs. Chandra Shekhar and Ors. 1993 Supp. (2) SCC 611*.

4. In view of observations made by the Apex Court and the fact that it is admitted case that though Degree was issued later but the petitioner was in possession of the essential qualification on that date, the present writ petition is allowed. Order dated 4th of January, 2018 passed by the respondent is hereby quashed.

5. Respondents are directed to consider the to consider the claim of the petitioner on the strength of Degree appended as Annexure P-11. The appointment will relate back to the day the persons junior to the petitioner in the Merit List were appointment though the monetary benefits are being declined on the principle of 'No Work No Pay'. However, the petitioner shall be entitled for all notional benefits consequential to such appointment.

January 24, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No