

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

(1) **CWP No. 21254 of 2018 (O&M)**
Date of Decision: 21.02.2023

Rajender Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

(2) **CWP No. 26291 of 2018 (O&M)**

Atma Ram

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. G.S. Gopera, Advocate,
for the petitioner in CWP No. 21254 of 2018.

Mr. Rajesh Hooda, Advocate,
for the petitioner in CWP No. 26291 of 2018.

Mr. Narender Singh Beghal, AAG, Haryana.

Mr. Brijeshwar Singh, Advocate,
for respondent No.2 in CWP No. 21254 of 2018.

Mr. Suresh Kumar Kaushik, Advocate,
for respondent No. 4 in CWP No. 21254 of 2018.

Mr. R.S. Longia, Advocate,
for respondent No. 3 in CWP No. 26291 of 2018.

Mr. B.K. Bagri, Advocate,
for respondent No.4 in CWP No. 26291 of 2018.

JAISHREE THAKUR, J.

1. By this common judgment, this Court proposes to dispose of

above titled two writ petitions since common questions of law and facts are involved therein. However, for the sake of brevity, the facts are taken from CWP No 21254 of 2018. The petitioner herein seeks issuance of a writ, order or direction, especially in the nature of Mandamus directing respondent No. 3 to award the marks as per the experience certificate of the petitioner who worked on the post of Sub Station Attendant (SSA) being equivalent and re-designated as Grid Sub Station Operator (GSO) and thereafter appoint the petitioner as Grid Sub Station Operator against advertisement No. 3/2016 dated 20.2.2016 (Annexure P-3). It is pleaded that the petitioner herein belongs to Scheduled Caste category and had been working as SSA with Haryana Vidyut Prasaran Nigam Limited (HVPNL), Karnal since 1st August, 2010 and the competent authority issued an experience certificate of 5 years, 6 months and 26 days with a specific remark that the experience of SSA may be considered as Grid Sub Station Operator. Respondent No.3 issued advertisement No. 3 dated 20.6.2016 for various categories of posts, including filling of 418 posts of Grid Sub Station Operator under Category No.5. The educational qualifications were specified therein with marks to be awarded for experience. As the petitioner was eligible for appointment under the said category, he applied and was allotted Roll No. 1305604427. However, the experience of the petitioner as SSA was not counted and, therefore, he was not called for interview. On inquiry, the petitioner was verbally informed that the experience certificate as issued was not considered for the post of Grid Sub Station Operator. The petitioner made a representation stating that the post of SSA stands re-designated as Grid Sub Station Operator and, therefore, experience certificate as issued by the department itself ought to be taken into account.

However, without considering the representation, final result has been declared for the post of Grid Sub Station Operator and the claim of the petitioner for appointment stands thwarted.

2. Learned counsel for the petitioner would argue that the respondents themselves re-designated the post of SSA equal to Grid Sub Station Operator and, therefore, having worked for a period of 5 years 6 months and 26 days, the petitioner is entitled to be given weightage for his experience and thereafter offered appointment to the post of Grid Sub Station Operator. Learned counsel would also submit that as per information made available under the RTI Act, there are three posts still available under the category the petitioner has applied and, therefore, the petitioner's claim cannot be rejected on the ground that all the vacancies have been filled in.

3. Per contra, learned counsel appearing on behalf of the respondent—Commission would urge that the educational qualifications required for the post were clearly specified and weightage of experience was to be given to the contractual workers engaged by any power utility with a rider “*that qualifying service should have been in any power utility in the same capacity*”. It is submitted that the petitioner had worked in the office of HVPNL, Karnal and was having experience of Shift Attendant (SA), which is not equivalent to the post of Grid Sub Station Operator and, therefore, experience could not have been counted.

4. I have heard learned counsel for the parties and perused the pleadings of the case and the annexures appended thereto.

5. The petitioner had worked as Sub Station Attendant on contract basis with a power utility namely HVPNL. Pursuant to the advertisement, he

applied for appointment as Grid Sub Station Operator and relied upon the experience certificate as issued by the Superintendent Engineer, HVPNL, Karnal. A reading of the said certificate would show that the petitioner had been deployed against the post of SSA. He had worked with HVPNL through various contractors for a total period of 5 years 6 months and 26 days. In the certificate issued by the Superintendent Engineer, it is clearly remarked "*the experience of SSA may please be counted as GSO (as per NIT), 5 years, 6 months 26 days.*" Apart from Annexure P/2, Annexure P/9 is available on the record, which is a certificate again issued by the Assistant Executive Engineer, HVPNL, Bastara Karnal to the effect that the petitioner Rajender Kumar was appointed as Sub Station Attendant (SSA) re-designated as Grid Sub Station Operator on 1.8.2010 at 220 KV Sub Station Bastara (Karnal) through outsourcing/contract basis. Apart from certificate issued by the Department itself, there is an office order dated 19.12.2003 (Annexure P/7) wherein Sub Station Attendant has been re-designated to be read as Grid Sub Station Operator. Therefore, once the post of Sub Station Attendant stands re-designated to be read as Grid Sub Station Operator, the petitioner who had worked with HVPNL, Karnal, as SSA would be entitled to weightage of the experience gained as stipulated in terms of the eligibility/educational criteria. The only ground for rejection of the petitioner's candidature is that he had worked as Shift Attendant. However, same cannot be accepted in light of the experience certificate issued by the competent authority of HVPNL, Karnal, wherein it has been specified that the petitioner had worked as Senior Shift Attendant. The experience gained has to be taken into account, considering the fact that the post of SSA stands re-designated as Grid Sub Station Operator.

6. During the course of arguments in this court, the respondents submitted that no post was available for being offered to the petitioner in CWP 21254 of 2018, under the Scheduled Caste category and the petitioner in CWP 26291 of 2018 under the BCA category. However, learned counsel for the petitioner has placed on record information received under the RTI Act on 12.1.2003, which would reflect that two posts in the Scheduled Caste category have not been filled whereas three posts are still lying vacant under the BCA category. The petitioner who had impleaded last selected candidate in each of the category have put in appearance and filed written statement contending that they have been working for more than three years after appointment letters were issued to them and vacancies are still available and therefore, their appointment be not disturbed.

7. Consequently, the writ petitions are allowed. The petitioners would be entitled to weightage for having worked as Senior Shift Attendant with the power utility, which post is equivalent and has been re-designated to a Grid Sub Station Operator. The necessary weightage be given to the petitioners herein for the experience within a period of one month from receipt of certified copy of this order and thereafter, if they have necessary merit, their names be recommended for appointment immediately. Thereafter, appointment letter be issued within one month to the petitioners in case all other conditions are satisfied. In case, on revaluation, it is found that the persons junior to the petitioners have been selected, all consequential benefits of seniority etc, other than back wages be given to the petitioners.

8. However, in case there is no vacancy, the appointment of the candidates lesser in merit already appointed, shall not be disturbed and

supernumerary post be created for them. Their appointment cannot be set aside on account of revision of the merit list, for the candidates have worked on the selected post and have not been appointed by any unfair means adopted by them. In this regard, I find support from judgments as rendered in **Rajesh Kumar and others Versus State of Bihar and others (2013) 4 SCC 690** and **Vikas Pratap Singh and others V. State of Chhattishgarh and ors. (2013) 14 SCC 494.**

9. The writ petition stands allowed on the above terms.

21.02.2023

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No