

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

CWP-21728-2018 (O&M)

Reserved on: 12.05.2023

Date of decision:02.06.2023

MANOJ LAMBA AND OTHERS

...Petitioners

VERSUS

HARYANA STAFF SELECTION COMMISSION

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ravinder Singh Dhull, Advocate
for petitioners No.1 to 4.

Mr. Rishabh Gupta, Advocate
for petitioner No.5.

Mr. Kapil Bansal, DAG, Haryana.

JAISHREE THAKUR, J.

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of certiorari for quashing notice dated 10.08.2018 (Annexure P-15), wherein the petitioners have not been called for the interview and further for issuance of a writ in the nature of mandamus, directing the respondents to consider the petitioners eligible for the post of Mandi Supervisor-cum-Fee Collector.

2. In brief, the facts as stated are that the Haryana Staff Selection Commission advertised 126 posts of Mandi Supervisor-cum-Fee Collector vide advertisement dated 7/2015 dated 10.07.2015 (Annexure P-1) under category No.17. The petitioners herein, being fully eligible, applied for the post of Mandi

Supervisor-cum-Fee Collector. Petitioner No.1 applied under General Category. Petitioner No.2 applied under BCB Category. Petitioners No.3 and 4 applied under ESM (General) category and petitioner No.5 applied under EBPG Category. The petitioners herein qualified the written examination and were called for scrutiny of documents but were not called for interview on the ground that their diplomas in Computer Education were not recognized by HARTRON/DOECC etc. and were declared ineligible for the said post. Petitioner No.1, being a General Category candidate, has secured total 164 marks and the last selected candidate under the said category has secured 154 marks. Petitioner No.2, being a BCB Category candidate, has secured total 149 marks and the last person selected under the said category has secured 147 marks. Petitioners No.3 and 4, being ESM General Category candidates, have secured total 105 marks and 102 marks respectively and the last person selected in their category has secured 101 marks. Petitioner No.5, being a EBPG Category candidate has secured total 149 marks and she was topper in her category. The entire grievance of the petitioners is that having obtained the necessary marks, they ought to be offered appointment by considering their Computer Courses as valid.

3. Learned counsel for the petitioners would contend that the petitioners are fully eligible to be appointed for the post of Mandi Supervisor-cum-Fee Collector and despite having sufficient marks, they have not been selected for the said post. They would argue that as per the advertisement issued, the essential qualification for the said post was Graduation with 55% marks from a recognized University or its equivalent with six months' certificate in computer from a recognized Institution and Hindi/Sanskrit upto

Matric Standard or higher education. It is submitted that petitioner No.1 has done B.Com from Panjab University, Chandigarh and has obtained one year Diploma in Software Computer Management from J2K Infosys Education & Welfare Society, Bhiwani in June, 2015, which is registered by the Government of Haryana. Petitioner No.2 has done his B.Com from Maharishi Dayanand University, Rohtak and has obtained one year Diploma in Computers from Nice Computer Academy. Petitioner No.3 has obtained his Diploma in Computer Application issued by Rajeev Gandhi Computer Saksharta Mission, which is an autonomous institute of HTCRGCSM Education Pvt. Ltd., registered under Company Act, 1956 by Government of India. Petitioner No.4 has also done his Diploma in Computer Application from All India Computer Saksharta Mission, which is an autonomous institution registered under Government of India, SCT, New Delhi. Petitioner No.5 has done her B.Com from Kurukshetra University, Kurukshetra and has obtained certificate of proficiency under Free Computer Education programme conducted by Directorate of School Education Haryana, issued by Educomp Solutions Ltd. While doing her B.Com from Kurukshetra University, petitioner No.5 studied Basics of Computer in her first and second semester and studied subject of Computer Application to Business and E-Commerce-1 in third and fourth semester, while doing her M.Com from Kurukshetra University, Kurukshetra. Moreover, she completed her Post Graduate Diploma in Computer Application (PGDCA) from Calorx Teachers University, as would be evident from Annexure P-19 and Annexure P-20. It is argued that the aforesaid computer certificates of the petitioners could not have been ignored as they possess sufficient qualifications and they ought to have been called for the interview for the said post.

4. Learned State counsel would submit that the petitioners were not considered eligible for the post of Mandi Supervisor-cum-Fee Collector because the computer certificate of the petitioners, as submitted by them at the time of scrutiny of documents, were not found valid as they had not done six months course in computers from a recognized institution as per the said advertisement. It is argued that the certificates of the petitioners herein do not fall under the list of 16 enlisted recognized institutes, which were to be considered for computer courses for the post of Mandi Supervisor-cum-Fee Collector, vide decision taken by the Haryana Staff Selection Commission on 07.09.2018.

5. I have heard learned counsel for the parties, and with their able assistance, have gone through the pleadings of the case.

6. The facts are not in dispute that the petitioners herein had applied for the posts of Mandi Supervisor-cum-Fee Collector Category No.17 in pursuance to Advertisement No.7/2015. For the said post, besides graduation with 55% marks from a recognized University, a six months certificate in computer from recognized institution is mandatory. In CWP No.20394 of 2018 titled as *Prince Vs. State of Haryana and others* decided on 14.11.2018, a decision taken on 07.09.2018 by the Haryana Staff Selection Commission with regard to the institutions, which were to be considered as *recognized* institutions for six months course in computer for the post of Mandi Supervisor-cum-Fee Collector. Details of said 16 institutions is as under:-

“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](#)).

15. PGDCA issued by University.

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

7. The question that needs consideration would be whether petitioners herein, who have done their six months computer course from an institute, which is though not recognized as one of the 16 institutes as enlisted by the Haryana Staff Selection Commission, but stands duly registered, would be

eligible for the posts of Mandi Supervisor-cum-Fee Collector/Auction Recorder?

8. In the opinion of this Court, answer of the question posed would be in negative. The advertisement i.e. Advertisement No.7/2015 clearly specified that the computer certificate would have to be issued from a 'recognized institute' and not merely from a registered institute. It is worthwhile to note that most institutes open after getting themselves registered, but do not impart education and hand out certificates with impunity. No classes are held, as there is no teaching staff nor any infrastructure. Most of these institutes get registered, as it is easy to earn off the students, who are keen to get a certificate without any actual education being imparted, whereas that is not the case where institutes are recognized by the State Government itself. Employer has absolute right to adjudge the suitability of the candidates whom they want to select for running administration. Therefore, petitioners herein, who do not possess six months certificate in computer from any of the 16 institutes as held to be recognized institutions for selection to the posts in question by the Haryana Staff Selection Commission, cannot be considered to be eligible.

9. The argument raised by counsel appearing for petitioner No.5 that petitioner No.5 has studied Basic of Computers in 1st and 2nd semesters and also studied subjects of Computer Application to Business and E-Commerce in 3rd & 4th semesters of her M.Com degree as one of the subjects and therefore, the same ought to have been taken into consideration, looks attractive, but equivalence of a qualification is not a matter which can be determined by this Court in exercise of its judicial review. Determination of equivalence of any qualification is domain of experts and therefore, this Court restrains itself from

going into the issue whether the subjects studied by petitioners as mentioned above would be equivalent to six months course in computer as required under the advertisement. The Hon'ble Supreme Court in the case of ***U.P.P.S.C. through its Chairman v. Rahul Singh***, 2018 AIR (Supreme Court) 2861 has held that, "*Judges are not and cannot be experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts.*" It would be appropriate to refer to the judgments as rendered by the Supreme Court to the effect that the courts should refrain from giving their own opinion over and above the opinion given by an Expert Committee. The judgements of the Supreme Court in this regard are ***Kanpur University through Vice Chancellor and others v. Samir Gupta and others*** (1983) 4 SCC 309, ***Rishal and others v. Rajasthan Public Service Commission and others*** (2018) 8 SCC 81, ***Uttar Pradesh Public Service Commission, through its Chairman and another v. Rahul Singh and another*** (2018) 7 SCC 254 and ***Sarita Meena v. State of Rajasthan*** 2021 (1) RLW 650. The Division Bench of Delhi High Court in ***National Board Of Examination v. Association Of Md Physicians***, 2022 AIR (Delhi) 246, has also recently held that *Judges are not and cannot be experts in all fields, and the opinion of experts cannot be supplanted by a Court overstepping its jurisdiction.*

10. At this juncture, this Court also takes note of the fact that in CWP No.13609 of 2020 titled as *Vikas Singh Vs. State of Haryana and others*, this Court, with consent of parties, vide interim order dated 11.01.2023 had sent the matter to the Registrar of MDU, Rohtak to constitute an expert committee to examine the issue of equivalence of study of computer education as done by the petitioners during their B.Sc. course with six months computer certificate as

required under the same advertisement i.e. Advertisement No.7/2015. Pursuant thereto, Registrar, MDU submitted his report dated 17.02.2023, which has not been challenged till today. The relevant part of the said report is reproduced as under:-

“...After perusal of the DMCs in r/o Mr. Vikas Singh, one of the petitioners who has passed B.Sc. with Computer Science as a subject from KUK (State University recognized by UGC) as well as the copy of the advertisement, List of Computer Diplomas for the post etc., the Committee after detailed deliberation was of the considered opinion and recommended that any student with B.Sc. having studied Computer Science/Computer Application/IT subject or equivalent subject may be considered as equivalent to six months Computer Course Certificate required for the said post(s), which is also covered in the List of Courses mentioned at Sr. No.5 in the above-said memo as well as in the Advt.”

11. Petitioner No.5 has also done PGDCA from Calorx Teachers University which is a State Private University established by State Legislature of Gujarat Act No.8 of 2009. As per list of 16 institutions enlisted as recognized institutions by the Haryana Staff Selection for selection to the post of Mandi Supervisor-cum-Fee Collector, PGDCA from a University is held to be a six months certificate in computer or higher qualification, therefore, she is eligible for selection to the post of Mandi Supervisor-cum-Fee Collector.

12. In view of the aforesaid facts and circumstances, the instant writ petition stands disposed of, holding petitioners No.1 to 4 as ineligible since they do not possess a six months certificate in computer from a recognized institute. As regards petitioner No.5, since she has done PGDCA from a University (apart from studying computer related subjects in B.Com and M.Com, equivalence of which to six months certificate in computer can be determined only by an

expert body), which falls under Sr. No.15 of the list of 16 institutions, which have been enlisted as the institutions recognized for selection to the post of Mandi Supervisor-cum-Fee Collector, she is held eligible for the post in question. Respondent No.1-Haryana Staff Selection Commission is directed to recommend name of petitioner No.5 for appointment to the post of Mandi Supervisor-cum-Fee Collector to the concerned department, if found meritorious and appointment letter be issued to her forthwith. Needless to say that petitioner No.5 will be entitled to all notional benefits.

June 02, 2023
Pankaj*

(JAISHREE THAKUR)
JUDGE

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