

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No. 21766 of 2018 (O&M)
Reserved on:10.05.2023
Pronounced on:26.05.2023

Jyoti ...Petitioner
Vs
State of Haryana and others ...Respondents

2. CWP No.24165 of 2018 (O&M)

Pankaj and others ...Petitioners
Vs
Haryana Staff Selection Commission ...Respondents

3. CWP No.24279 of 2018 (O&M)

Vinay Kumar ...Petitioner
Vs
Haryana Staff Selection Commission and another ...Respondents

4. CWP No.5322 of 2019 (O&M)

Jatin Bhatia ...Petitioner
Vs
State of Haryana and another ...Respondents

5. CWP No.13609 of 2020 (O&M)

Vikas Singh ...Petitioner
Vs
State of Haryana and others ...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Jasbir Mor, Advocate
for the petitioners in CWP No.21766 of 2018 and
CWP No.13609 of 2020.

Mr. Vikram Sheoran, Advocate
for the petitioners in CWP No.24165 of 2018.

Mr. Inder Pal Goyat, Advocate
for the petitioner in CWP No.24279 of 2018.

Mr. Suresh Kumar Kaushik, Advocate

for the petitioner in CWP No.5322 of 2019.

Mr. Kapil Bansal, DAG, Haryana.
Mr. Narinder Singh Behgal, AAG, Haryana.

Mr. B.R. Mahajan, Senior Advocate with
Mr. Hitesh Pandit, Advocate
for respondent-HSAMB.

Mr. Prateek Mahajan, Advocate and
Mr. Saloni Sharma, Advocate
for respondent No.2 in CWP No.24279 of 2018.

JAISHREE THAKUR J.

1. This order of mine shall dispose of five writ petitions bearing CWP Nos. 21766 of 2018; 24165 of 2018; 24279 of 2018; 5322 of 2019 and 13609 of 2020, and as the grievance raised by the petitioner(s) in all the writ petitions is that they have not been called for interview on the ground that they did not possess requisite six months/one year computer certificate/diploma in computer from a recognized institution.
2. In brief, facts, which have led to the filing of the instant writ petition, are that Haryana Staff Selection Commission, Panchkula (HSSC in short) had published Advertisement No.7/2015 dated 10.07.2015 for direct recruitment of various categories of posts as mentioned in the said advertisement. In pursuance to the said advertisement, the petitioners in the afore-captioned writ petitions had applied for various posts, details of which are tabulated as under:-

CWP No.21766 of 2018				
Name of the petitioner	Advt. No.	Cat. No. & name of post	Essential qualification	Qualification of the petitioner
Jyoti	7/15	Cat No.17, Mandi Supervisor-cum-Fee Collector	i) Graduation with 55% marks from a recognised University with six months certificate in computer from a recognised	B.Sc.

			Institutions; and ii) Hindi/Sanskrit upto Matric Standard or higher education.	
CWP No.13609 of 2020				
Vikas Singh	As above	As above	As above	B.Sc.
CWP No.24165 of 2018				
Pankaj	As above	Cat. No.18, Accountant (MC)	i) Bachelor of Commerce with 55% from a recognized University; ii) Six months certificate course in computer from a recognized institution; and iii) Hindi/Sanskrit upto Matric standard or higher education.	B.Com; 1 year Diploma in Computer application from Haryana State Council for Child Welfare
Deepak Sharma	As above	As above	As above	B.Com; 1 year diploma in Computer Application from HARTRON.
Pardeep Kumar	As above	As above	As above	B.Com; 1 year Diploma in Computer Application from Micro Computers Education Samiti.
Khushdeep Singh	As above	As above	As above	B.Com; 1 year Diploma in Computer Application from Maha Rishi Dayanand Saraswati Higher Education & Vocational Training Society.
Sanjay Kumar	As above	As above	As above	B.Com; Course in Industrial Accountant from the Institute of Computer Accountants, Kolkata.
CWP No.5322 of 2019				
Jatin Bhatia	As above	Cat. No.19, Auction Recorder	ii) Graduation with 55% marks from a recognised University with six months	i) Bachelor of Technology (Electronic & Comm.

			certificate in computer from a recognised Institutions; and ii) Hindi/Sanskrit upto Matric Standard or higher education.	Engineering) ii) MBA iii) PGDCA from Sunrise University recognized by UGC & Govt. of India.
CWP No.24279 of 2018				
Vinay Kumar	6/2016	Cat. No.56, Field Inspector (Store)	i) Graduate from recognized University. ii) Minimum 1 year diploma in computer from the recognized University/Institute. iii) Knowledge of Hindi/Sanskrit upto Matric Standard or Higher education.	B.Sc. Computer Science

3. Petitioners herein claiming to be eligible in their respective categories of posts, submitted their online applications. Being successful in the written examination conducted by the respondent-Commission, they were called for scrutiny of documents. They appeared before the competent authorities for scrutiny of documents and submitted requisite documents pertaining to their qualifications. However, they were surprised to find that their names were not reflected in the list of candidates called for the interview. They were orally informed by the respondent-Commission that they did not possess the requisite six months/1 year computer certificate/diploma from a recognized institution and therefore, they did not qualify for interview.

4. Learned counsel appearing for the petitioners in CWP Nos.21766, 24279 of 2018 and 13609 of 2020 would contend that despite having necessary qualification, as the petitioners have done Bachelor of Science with Computer Science as one of the subjects from the Kurukshetra University, Kurukshetra, they were entitled to be called for interview. It was further argued that detailed mark sheets as appended with the writ petitions would reflect that they had studied the subject of Computer Science while

pursuing their graduation degree in Bachelor of Science. It was further argued that a reading of the advertisement would reflect that only qualification required was *a six months computer certificate from a recognized institution* and having done B.Sc. from the Kurukshetra University wherein Computer Science was one of the subjects, there was no occasion for the respondents to ignore said aspect. It was also argued that B.Sc. with Computer Science as one of the subjects, is a higher qualification than a six months' computer certificate from a recognized institution.

5. Learned counsel appearing for the petitioner in CWP No.5322 of 2019 would contend that the petitioner applied under Advertisement No.7/2015 for post of Auction Recorder under Category No.19. It was argued that the petitioner had obtained degree in Bachelor of Technology (Electronic & Communication Engineering) from the Kurukshetra University, Kurukshetra; MBA from National Institute of Technology, Kurukshetra with Computer Application in Management as one of the subjects and Post Graduate Diploma in Computer Application from Sun Rise University, duly established by the Government of Rajasthan vide Sun Rise University Act, 2011 and recognized by UGC and Government of India. However, the petitioner, who had necessary marks to be considered eligible for calling for an interview, was declared not eligible on the ground that he did not have a six months computer certificate from a recognized institution. Learned counsel appearing for the petitioners in CWP No.24165 of 2018 adopted the same arguments as have been raised by the counsel appearing for the petitioner in CWP No.5322 of 2019.

6. However, learned counsel appearing for the petitioners in CWP Nos.24165 of 2018 and CWP No.5322 of 2019 would raise an additional

argument that in **CWP No.20394 of 2018** titled as *Prince Vs. State of Haryana and others* decided on 14.11.2018 and other connected matters, the issue regarding Computer Course for the post of Mandi Supervisor-cum-Fee Collector came up for consideration before this Court. The challenge in those writ petitions was similar where the candidature of petitioners therein had been rejected on account of not considering the computer certificates as appended by them. At that juncture, the Haryana Staff Selection Commission held a meeting on 07.09.2018 and thereby took a decision enlisting 16 institutions, which were to be considered as recognized for the posts of Mandi Supervisor-cum-Fee Collector. It was further argued by the counsel appearing in CWP No.24165 of 2018 that computer course done by petitioner No.1 from Haryana State Council for Child Welfare and computer course done by petitioner No.2 from HARTRON have been mentioned in the list of aforesaid 16 institutions and therefore, the same ought to have been taken into consideration by the respondent-Commission. Similarly other petitioners in CWP No.24165 of 2018 have also obtained computer certificates from recognized institutions and therefore, their candidature cannot be rejected merely on the ground that those institutions are not found mentioned in the list of said 16 institutions. It was also argued that the posts of Accountant (MC) and Mandi Supervisor-Cum-Fee Collector were advertised under one advertisement i.e. Advertisement No.7 of 2015 and therefore, no different yardstick can be applied in recognizing an institution. Learned counsel appearing for petitioner in CWP No.5322 of 2019 would also submit that apart from degree of the petitioner in Bachelor of Technology (Electronic & Communication Engineering), he has also done Post Graduation Diploma in Computer Application from a recognized

University and by virtue of the decision taken in the meeting held on 07.09.2018 of the HSSC, the petitioner would be eligible to be called for interview.

7. Per contra, learned counsel appearing on behalf of the respondents would urge with great vehemence that the petitioners herein are bound by the terms and conditions of the advertisement and since they did not possess six months' computer certificate from a recognized institution, they cannot be held eligible to be called for interview.

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

9. A perusal of the paper book would reflect that during the course of arguments in one of the connected matters i.e. CWP No.13609 of 2020, a Coordinate Bench of this Hon'ble Court took note of the contention raised by the counsel appearing for the petitioner therein that the petitioner could not be held ineligible on the ground that he did not possess six months' computer certificate, as he has studied Computer Science as one of the subjects in all three years of his B.Sc., which would be equivalent to six months certificate course in computers imparting basic knowledge. It was also submitted that several persons, who have obtained a similar B.Sc. degree with Computer Science as a subject had been considered eligible. Based on the contentions raised, the Coordinate Bench vide order dated 16.11.2020 directed the Registrar to constitute an expert committee to examine the issue of equivalence of the study of computer education by the petitioner during B.Sc. with a six months' computer certificate. The said order was modified by this very Court on 11.01.2023 and with consent of parties, the Registrar of MDU, Rohtak was directed 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 advertisement in question. Pursuant thereto, report of the Registrar, MDU dated 17.02.2023 has been received, relevant part of which 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.”

10. A reading of the aforesaid report would reflect that the Committee has recommended that the qualification of B.Sc. with Computer Science/Computer Application/IT subject or equivalent subject, may be considered as equivalent to a six months computer course certificate. This Court is not competent to go into the equivalence of courses undertaken and has no hesitation in holding so; therefore, the report of the expert committee cannot be negated. 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, *“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*. Consequently, this court is also of the opinion that once the Expert Committee, well versed in the subject, has given its definite opinion, this Court would rely on the report wherein it has been stated that course as undertaken by the petitioners i.e. B.Sc. with Computer Science/Computer Application/IT subject may be considered as equivalent to a six months computer course certificate. According to the report, such courses undertaken would also be covered under Sr. No.5 of 16 institutions as recognized by the HSSC. The question whether the stipulation or prescription of the particular academic qualification excludes an applicant who possesses what is termed as a higher qualification, from their candidature to the concerned post, has often arisen for consideration. The Full Bench of this court in ***Manjit Singh v. State of Punjab, 2010(3) S.C.T. 703*** has held that the candidature of the candidates possessing higher

qualifications cannot be rejected, particularly when the higher qualification is acquired in the same stream.

11. In view of the aforesaid, this Court is of the opinion that petitioners in CWP Nos.21766 of 2018, 24279 of 2018 and 13609 of 2020 are eligible for their respective posts to which they applied for and therefore, the respondent-Commission is directed to recommend their names for appointment to the said posts if they are otherwise meritorious and eligible to the concerned department and appointment letter be issued to them forthwith. Needless to say they will be entitled for all notional benefits. Consequently, CWP Nos.21766 of 2018, 24279 of 2018 and 13609 of 2020 are allowed.

12. As regards CWP No.5322 of 2019, petitioner-Jatin Bhatia has done his PGDCA from Sun Rise University, which is established under the State Act and recognized by the UGC and Government of India and therefore, falls under Sr. No.15 of the list of 16 institutions which have been recognized by HSSC and therefore, he is also considered eligible for the post of Auction Recorder under Category No.19. The HSSC is directed to recommend the name of the petitioner for appointment to the said post to the concerned department, which shall issue appointment letter to him forthwith, if found otherwise eligible. Needless to say, he will be entitled for all notional benefits. Consequently, CWP No.5322 of 2019 also stands allowed.

13. Petitioners No.1 and 2 in CWP No.24165 of 2018 obtained their computer diploma/certificate for a duration of one year from Haryana State Council for Child Welfare and HARTRON respectively, which are recognized institutions as per the list provided by HSSC at Sr. No.7 and 4

respectively. However, certificates attached by petitioners No.3 to 5 are not issued by the institutions, which are held recognized by HSSC and therefore, they cannot be taken into consideration. Consequently, CWP No.24165 of 2018 is disposed of holding petitioners No.1 and 2 eligible. The HSSC is directed to recommend names of the petitioners No.1 and 2 for appointment to the said post of Accountant (M.C.) to the concerned department, which shall issue appointment letters to them forthwith, if found otherwise eligible. Needless to say, they will be entitled for all notional benefits. Petitioners No.3 to 5 in this writ petition are held to be not eligible.

(JAISHREE THAKUR)
JUDGE

May 26, 2023
Pankaj*

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