

2023:PHHC:041913

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

CWP No.20040 of 2020
Reserved on 24.02.2023
Pronounced on: 17.03.2023

Partibha
Versus
.... Petitioner

State of Haryana and another
.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rajat Mor, Advocate, for the petitioner.

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

JAISHREE THAKUR.J

1. The petitioner herein prays for issuance of an appropriate writ, order or direction in the nature of certiorari for quashing impugned order dated 17.09.2020, Annexure P-8, vide which her claim for appointment as Lower Division Clerk (LDC) has wrongly been rejected, with a further prayer for quashing final result dated 08.06.2019, Annexure P-5, and revised result dated 06.01.2020, Annexure P-7, for the post of LDC against advertisement No.3 of 2016, dated 20.02.2016, Annexure P-1, whereby respondent No.2 has wrongly prepared two merit lists under UHBVNL and DHBVNL thereby depriving the petitioner of a fundamental right of selection, and also for a writ in the nature of mandamus directing respondent-Commission to consider the diploma possessed by the petitioner as issued by National Computer Training Institute and recommend her name for appointment to the post of LDC in UHBVNL as she has secured 68 marks out of 200 marks under the BCA category.

2. In brief, the facts as stated are that the Haryana Staff Selection Commission-respondent No.2 herein published advertisement No.3/2016, dated 20.02.2016 for direct recruitment under various categories of posts including 964 posts of LDC for UHBVNL/DHVBNL. As per the advertisement, the essential qualifications prescribed for appointment are as under:-

“E.Q. i) Bachelor Degree in commerce with a minimum 50% marks in respect for General Category candidates and 45% marks of SC category candidates of Haryana Domicile from any university recognized by the Govt. of Haryana. The percentage marks required for other categories would be same as for General category candidates.

ii) Knowledge of Hindi/Sanskrit upto Matric Standard or higher education.

iii) “O” Level course or above of computer, for a minimum period of One year from NIELIT (DOEACC) or HARTRON.

iv) The weightage of experience to the Contractual workers engaged by any Power Utility would be given as under:-

Weightage of Experience

One percent mark for each completed year of service in the respective category be granted subject to a maximum of eight percent with the rider that the qualifying service should have been in any Power Utility in the same capacity.

Age 18-42

Pay Scale Rs.5200-20200+Rs.2400 GP”

The petitioner filled in her online application under BCA category and also appended all the relevant documents along with her application form. Written exam was conducted for the post in question and the petitioner herein scored 58 marks. Thereafter, on scrutiny of documents, the petitioner was called for interview for the post of LDC. After the interview, result was declared and published on 08.06.2019 and the final result for the post of LDC was declared under two different heads i.e. for 486 posts for UHBVNL and 478 posts for DHBVNL. Two separate merit lists were prepared. The petitioner herein was not appointed, which led to the filing of the present writ petition.

3. Learned counsel appearing on behalf of the petitioner would urge that the petitioner has been deprived of a valuable right of consideration on the post of LDC by the respondents and her claim has been rejected vide impugned order dated 17.09.2020. It is argued that the advertisement, as published, did not mention that two separate merit lists would be prepared and the same is contrary to the terms and conditions of the advertisement dated 20.02.2016. It is also submitted that the claim of the petitioner for appointment as LDC has wrongly been denied by not considering her one year computer course. The petitioner had submitted two Diploma Certificates at the time of interview, one issued by the National Computer Training Institute dated 20.01.2016 and the other issued by the HARTRON on 04.03.2017 and the same ought to have been taken into consideration.

4. *Per contra*, learned counsel appearing on behalf of the respondents would submit that the petitioner does not have the necessary qualification as required to be appointed as LDC. It is submitted that the

advertisement that was issued clearly had highlighted that various posts were required to be filled up for UHBVNL and DHBVNL. 964 posts of LDC were to be filled up for UHBVNL and DHBVNL and one of the essential qualifications was “O” Level course or above of computer, for a minimum period of One year from NIELIT (DOEACC) or HARTRON. It is submitted that the Haryana Staff Selection Commission had received separate requisitions from both UHBVNL and DHBVNL for the posts of Upper/Lower Division Clerk. The petitioner was not selected as she did not have valid computer certificate. The Commission had decided that the essential qualification for appointment as LDC in UHBVNL would be “O” Level Course or above of computer, for a minimum period of One year from NIELIT (DOEACC) or HARTRON and that essential Qualification for appointment as LDC in DHBVNL, will be “O” Level Course or above of computer, for a minimum period of One year, and the selection would be made separately for UHBVNL/DHBVNL as per requisition. It was also decided that the candidates having BCA, MCA, PGDCA, B.Sc. (IT), M.Sc. (IT), B.Tech. (IT) and M.Tech. (IT) and one year diploma issued by any Government recognized institute, would also be eligible. One candidate challenged the select list for the post of Upper Division Clerk (UDC) on the ground that two separate merit lists could not have been prepared, a similar plea as taken by the petitioner. Said writ petition was allowed, however, it was challenged in LPA No.2310 of 2017 titled as *Shikha and others Versus State of Haryana and others*, and ultimately, the judgment was set aside. The same procedure has been adopted for preparing the merit list for appointment to the post of Lower Division Clerk (LDC) as had been accepted by the

Division Bench in *Shikha's case (supra)*. Counsel for the respondents would submit that even otherwise, the petitioner cannot be considered for the post of LDC in DHVBNL as she does not have the requisite marks and the last selected candidate has obtained 93 marks. As for consideration of the claim of the petitioner for appointment as LDC in UHBVNL, she does not have the necessary qualification of "O" Level Course or above of computer, for a minimum period of One year from NIELIT (DOEACC) or HARTRON.

5. I have heard learned counsel for the petitioner and find that the prayer of the petitioner for appointment as LDC cannot be acceded to. The petitioner herein has challenged separate select lists prepared by the Haryana Staff Selection Commission by contending that common list should have been prepared. However, this matter is no longer *res integra*. A Single Bench, while deciding CWP No.6454 of 2017 titled as *Sarita Sharma Versus State of Haryana and another, dated 21.11.2017*, wherein challenge was to the select list prepared for UDC, has settled the issue. The petitioner does not have the necessary essential qualification to be appointed as LDC in UHBVNL, since she does not have the necessary qualification of "*O*" Level Course or above of computer, for a minimum period of One year from NIELIT (DOEACC) or HARTRON, even though she has the necessary qualifying marks, whereas she is ineligible to be appointed as LDC in DHVBNL as she does not have the necessary marks (last selected candidate has 93 marks and the petitioner has 68 marks) even though she has the necessary computer certificate. The argument that the petitioner has a certificate as issued by HARTON dated 04.03.2017 and the same should have been considered is without merit, as the said certificate has been issued

after the cut off date.

6. Consequently holding that the petitioner does not have the necessary merit/essential qualification for being appointed as Lower Division Clerk, the writ petition stands dismissed.

(JAISHREE THAKUR)
JUDGE

~~1~~ 7.03.2023

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No