

224
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-9215-2019(O&M)
Date of Decision: 08.05.2024

Satish Kumar and others

....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vikas Kuthiala, Advocate, for the petitioners.

Mr. Kapil Bansal, DAG, Haryana.

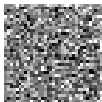
Mr. Anil Chawla, Advocate, for respondents No.2 and 3.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondents to reinstate the petitioners w.e.f. the date of their illegal termination with consequential benefits of arrears of pay etc.

2. Learned counsel for the petitioners has submitted that the petitioners were appointed by an outsourcing agency in the year 2013 and thereafter, they have been terminated on the ground that they were not fulfilling the essential qualifications because the Institutes from where they had done two years ITI course were not affiliated with any Government Department recognized by the State Government. He submitted that the

qualifications for the post of ALM are so stated in Annexure P-2 which



provides as under:-

UTTAR HARYANA BILJI VITRAN NIGAM LIMITED
NOTIFICATION

18 October, 2010

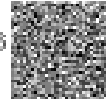
No. 82 /UH/GA-28/REG In exercise of Power conferred Under Section 56(3)(vi) of Haryana Electricity Reform Act, 1997, read with the Electricity Act, 2003 and all other enabling powers in this behalf, the UHBVN is pleased to make following amendments in the existing Recruitment and Promotion Policy of Assistant Lineman contained in Notification No. 27/REG-119 dated 10.10.1988, No. 60/REG-137 dated 14.03.1990, No. 163/REG-119/Vol-II dated 09.04.1993, Notification No. 38/UH/GA-381 dated 10.01.2006, Notification No. 46/UH/GA-40/REG dated 18.10.2006, Notification No. 61/UH/GA-28/REG dated 12.12.2007 and Notification No. 76/UH/GA-28/REG dated 20.08.2009: -

1.2.1 Assistant Lineman

Existing Qualification	Proposed Qualification
97% posts of ALM will be filled up by direct recruitment from amongst the persons having minimum qualification of Matric with 2-years ITI in Electrician/ Wireman trade or having 2-years Vocational course under the trade of Lineman conducted by Director, ITI & Vocational Education, Haryana from any institute recognized by the State Government.	97% posts of ALM will be filled up by direct recruitment from amongst the persons having minimum qualification of Matric with 2-years ITI in Electrician/ Wireman trade or having 2-years Vocational course under the trade of Lineman or Electrician (Maintenance and Repair of Electrical and Domestic Appliances) conducted by Director, Industrial Training & Vocational Education, Haryana or National Apprenticeship certificate awarded under the Apprenticeship Act-1961. from any institute recognized by the State Govt.
Must have passed Hindi/ Sanskrit upto Matric standard.	Must have passed Hindi/ Sanskrit upto Matric standard.

This issues in pursuance of the decision taken by the Board of Directors, UHBVN, in its meeting held on 15.09.2010.

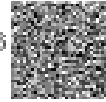
Under Secretary/GA,
for M.D., UHBVN, Panchkula.



3. Learned counsel for the petitioners submitted that the respondents without verifying the certificates of the petitioners have terminated their services on different dates and the same could not have been done without proper verification. He also submitted that at the time when they joined through outsourcing agency, it was the duty of the respondents to have verified the certificates of the petitioners before giving them appointments but the same has not been done and therefore, the petitioners may be considered for re-instatement in this regard.

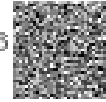
4. On 19.01.2024, this Court had directed respondents No. 2 and 3 to seek information with regard to the aforesaid verification and to file an affidavit. In pursuance thereof, an affidavit has been filed by the Executive Engineer, OP Division.

5. Mr. Anil Chawla, learned counsel appearing on behalf of respondents No.2 and 3 submitted that earlier a verification was done with regard to the present petitioners as well and they were named in the list of 45 candidates and vide Annexure R-2/5, the information was given to the Executive Engineer, OP Division, Assandh by the Deputy Director (Certificate), Skilled Development & Industrial Training Department, Haryana (Chandigarh) in which it was so stated that so far as persons who figured from serial No.1 to 18 are concerned, they were having the proper qualifications because their certificates were duly verified to be correct but so far as the remaining persons who figured from serial No.19 to 45 are concerned, their certificates did not relate to the Skilled Development and Industrial Training Department, Haryana and the names of the petitioners in



the present case find mention in the aforesaid list from serial Nos.19 to 45. He submitted that even otherwise also after the order passed by this Court on 19.01.2024, again verification was done and information was sought vide Annexures R-2/6 and R-2/7 and it was so informed by the Department of Skilled Development and Industrial Training, Haryana that the Institutions which have been mentioned in the aforesaid letter Annexure R-2/8 from where the petitioners had done their two years ITI course were not affiliated with the department. He submitted that therefore, the position is clear to the extent that earlier also verification was made and again verification has been done in this regard. He submitted that as per the qualification, the qualification had to be two years ITI course from any Institute recognized by the State Government, whereas the Institute from where the petitioners have done their ITI two years course is not recognized by the State Government and therefore, they were not even qualified.

6. Learned counsel also submitted that even otherwise also, the petitioners were recruited through the outsourcing agency and the respondent-Nigam had no privity with the petitioners and it is a settled that no such direction can be issued in case the recruitment was made by the outsourcing agency. He referred to a judgment of a Co-ordinate Bench of this Court in **Karan Singh Versus State of Haryana and others, CWP No.1481 of 2022**, decided on **12.05.2022**, which has been attached as Annexure R-2/11 and in which even a reference has been made to another judgment of this Court in **Anmol Garg and another Versus State of Punjab and others, CWP No.29655 of 2018**, decided on **28.11.2018**, which was upheld in LPA as well. He submitted that in this way the petitioners do not

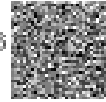


have any cause of action and the present petition is liable to be dismissed.

7. I have heard the learned counsel for the parties.

8. The sole controversy involved in the present case is that the petitioners who were recruited by the outsourcing agency have thereafter been relieved from service on the ground that they did not have two years ITI qualification from an Institute recognized by the State Government. As per the affidavit now filed by the respondent-Nigam, earlier also the certificates of the petitioners were got verified from the Skilled Development and Industrial Training Department, Haryana, which is the organization of the State Government and after passing of the order by this Court on 19.01.2024, again the same has been verified. A perusal of the aforesaid letters and the reply filed by the Skilled Development and Industrial Training Department, Haryana, which is of the State of Haryana, it is clear that the petitioners had taken two years ITI course from Universities /Organizations /Institutes which were not recognized by the Government and therefore, the petitioners were not qualified for the same.

9. An argument was raised by the learned counsel for the petitioners that as per the aforesaid qualifications, the recognition has to be by the State Government with regard to the later part i.e. when a candidate is having vocational course under the trade of Lineman or Electrician but it does not apply to the first part i.e. when a candidate is having two years ITI course in Electrician/Wireman trade. However, this issue has already been decided by this Court in **CWP No.22011-2020, decided on 28.02.2024** by referring to another judgment in LPA No.946 of 2016 wherein it has been held that the aforesaid two qualifications which



have been mentioned in the aforesaid advertisement cannot be read in isolation and they are to be read together and the condition of being recognized by the State Government pertains to both the qualifications as mentioned. The relevant portion of the aforesaid judgment of LPA is reproduced as under:-

“The appellant laid challenge to the order of termination of his services passed on the ground that he was not possessing the requisite qualification of two years' course in electrical /wireman trade from an I.T.I. recognized by the State Government. Learned Single Judge dismissed his writ petition relying upon an earlier decision of this Court dated 18.01.2016 in Satish Kumar versus UHBVN and others) where identical issue had arisen for consideration.

The point in issue is whether the appellant was possessing the requisite qualification on the date of his appointment, i.e., 15.10.2008?

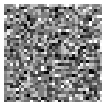
It is undeniable that on 18.10.2006, the following qualification was prescribed for the post of Assistant Lineman:-

“QUALIFICATION FOR DIRECT RECRUITMENT FOR THE POST OF ASSISTANT LINEMAN.

50% posts will be filled up by direct recruitment from amongst the candidates who possess the following qualification:-

- (i) Matric with 2 years ITI in Electrician/Wireman trade or having 2 years vocational course under the trade of Lineman conducted by Director, ITI & Vocational Education, Haryana from any institute recognized by the State Government.*
- (ii) Must have passed Hindi/Sanskrit up to Matric Standard.....”*

The appellant admittedly does not possess two years' ITI Course in Electrical/Wireman trade and was thus lacking the requisite qualification. In this view of the matter, no fault can be found with the order passed by learned Single Judge.



Dismissed.”

10. In view of the aforesaid facts and circumstances, this Court is of the considered view that considering the fact that the petitioners did not fulfill the requisite qualifications as aforesaid and also the fact that no direction can be issued to the outsourcing agency who had recruited the petitioners and who had relieved them because of the aforesaid reason.
11. Consequently, the present petition is devoid of any merit and the same is hereby dismissed.

08.05.2024
rakesh

(JASGURPREET SINGH PURI)
JUDGE

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