

2024:PHHC:053715-DB
CWP-23382-2016 (O&M)
Date of Decision: 22.04.2024.

Ravinder Kumar and others

...Petitioners

Vs.

The State of Haryana and others

...Respondents

**CORAM: HON’BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON’BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present None for the petitioners.

Mr. Hitesh Pandit, Addl. AG, Haryana.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. No one appears on behalf of the petitioners.
2. The issue raised in the present petition is no more res integra in view of the judgment of this Court in CWP-10174-2013, titled as Kulbir Singh and others vs. State of Haryana and others, decided on 09.10.2014. The relevant extract of the same is reproduced as under:-

“From the above, it is clear that the experts in the field from their experience have given a firm opinion to the effect that M.Sc. Statistics cannot be considered equivalent to M.A. Mathematics/M.Sc Mathematics/M.Sc Applied Mathematics. That being the position, as per the settled position of law, we refrain ourselves from entering into this issue any further. According to us, this issue is better left to the experts. It is equally well settled that it is prerogative of the employer to prescribe the qualifications to a particular post depending upon the needs and requirements of that post. Further, in the case in hand, statutory Rules under Article 309 of the Constitution of

India have been framed by the State of Haryana prescribing qualifications for appointment to various posts including PGT Mathematics wherein the qualification of M.Sc Statistics is specifically excluded. We find nothing unreasonable or arbitrary in the same.”

3. Learned counsel for the respondents submits that since the issue already stands finally adjudicated, the claim of the petitioners for treating M.Sc. (mathematics statistics) as equivalent to that of M.Sc. (applied mathematics) cannot be reexamined and the writ petition is, therefore, deserves to be dismissed.

4. We have considered the submissions.

5. The Division Bench of this Court in Kulbir Singh and others’ case (supra), after relying on an earlier judgment passed in CWP-6704-2011, Narinder Kumar and another vs. HPSC, decided on 24.04.2012, has dismissed the writ petition. We find that the ratio laid down in Narinder Kumar and another’s case (supra) is passed on sound principles and held as under:-

“From the above judgments it is clear that (i) the employer has a prerogative to prescribe the qualification for a particular post or service which is either prescribed under the rules and if not depending upon the needs and requirement of the post the employer can accordingly prescribe the same, if such a qualification has been prescribed and has been advertised the employer can insist upon strict adherence thereto.

(ii) If the employer prescribes the essential qualification for appointment to a particular post and where it is not mentioned about the eligibility of the equivalent course to the prescribed qualifications either in the statutory rules or in the advertisement, absence of such a clause clearly indicates that the

employer did not desire to appoint a person possessing equivalent qualification.

(iii) A Court should not generally delve into determining as to whether a particular qualification is an exact equivalent to the one prescribed in the advertisement/statutory rules and leave the same to the employer to determine.

(iv) Insistence on the advertisement, qualifications is also essential for the reason that if there is any deviation from the qualifications mentioned in the advertisement it would give rise to a grievance for all those who had some or even better qualifications than the appointee or appointees but who had not applied for the post because they did not possess the qualifications mentioned in the advertisement. This would amount to a fraud on public as public posts are to be filled in accordance with Articles 14 and 16 of the Constitution of India and any violation thereof cannot be permitted by the Court nor can the Court be a party to such illegal process of appointment.

In the light of the above, challenge of the petitioners to the order of rejection of their candidature cannot be accepted.

Petitioners have placed on record documents, communications and extracts of book of equivalence of recognized examination of the Kurukshetra University, Kurukshetra, Guru Jambheshwar University, Hisar and Maharishi Dayanand University, Rohtak which do indicate that degree of M.Sc. (Applied Mathematics) possessed from Guru Jambheshwar University, Hisar is equivalent to M.Sc. (Mathematics) of Kurukshetra University, Kurukshetra and Maharishi Dayanand University, Rohtak. Reference has been made to already appointed Lecturers in Mathematics who possess the degree of M.Sc. (Applied Mathematics) and by treating them to be eligible they were recommended by the Commission and appointed by the Department of Education. Communications do indicate that there has been acceptance in principle by the State of Haryana with regard to the equivalence of the degree of M.Sc. (Applied Mathematics) obtained from the Guru Jambheshwar University,

Hisar to that of M.Sc. (Mathematics) obtained from Kurukshetra University, Kurukshetra and Maharishi Dayanand University, Rohtak. Since it has been held that the employer has a prerogative to prescribe the qualifications for a post and the Court should not delve into the issue of whether a particular qualification is an exact equivalent to the qualifications prescribed by the employer the said prerogative should therefore be left to the sole discretion of the employer.”

6. The Hon’ble Supreme Court has recently held in Ankita Thakur and others vs. The Himachal Pradesh Staff Selection Commission and others 2023 (15) Scale 340, that the High Courts would not enter into the issue relating to equivalence of qualification, as the same is a purely academic exercise.
7. In view thereof, we do not find any reason to examine the issue again and the writ petition is accordingly dismissed.
8. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

22.04.2024.
rajesh

1. Whether speaking/reasoned?

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Yes/No
2. Whether reportable?

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Yes/No