



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

214

**CWP-16279-2018
Date of decision: 09.07.2025**

PAWAN KUMAR

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Ankur Goyat, Advocate
for the petitioner.

Mr. Rahul Dev, Addl. A.G. Haryana.

Mr. Sandeep Thakan, Advocate
for respondents No.6 and 7.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the order dated 08.02.2018 whereby petitioner claims that his juniors had been promoted to the post of Telephone Attendant ignoring his claim.

2. Learned Counsel appearing on behalf of the petitioner contends that notwithstanding the statutory qualification prescribed under the Haryana Irrigation Department, Circle Cadre, Workmen Establishment Group C Service Rules, 2011 prescribing only a basic knowledge of computer, for promotion from amongst Beldar, the respondents have ignored the claim of the petitioner to favour the junior for promotion to the post of Telephone Attendant by seeking a certification course. He vehemently contends that the



respondent-authorities, at the time of consideration for promotion held the petitioner ineligible for want of academic qualification Certificate of Computer as a proof to determine whether the petitioner possess basic knowledge of computer or not. The requirement of possessing a Certificate course of Computer Applications has been separately prescribed by the respondents against different posts as per Appendix 'B' for appointment by way of a direct recruitment or appointment by way of transfer/deputation. However, the requirement of a 06 months Certificate of Computer Application has been deleted where the posts were required to be filled up by way of a promotion. By insisting upon a requirement of submitting an academic certificate of having completed a course in computer applications, a requirement beyond the rules has been prescribed to dislodge the claim of the petitioner which is beyond the rules and amounts to an unlawful deprivation of the petitioner of his right of consideration.

3. Counsel further contends that as per the service rules, the post of "Telephone Attendant" could be filled up by way of promotion from amongst Beldar possessing five years experience and basic knowledge of computer but at no point in time, during the promotion proceedings, any test for assessment of the basic knowledge of computer of the petitioner was conducted. Instead, the respondents conveyed that the petitioner ought to possess a certificate of having successfully completed a course in Computer Applications before he can be accepted to have basic knowledge of computers and it was in the said circumstances that the petitioner also underwent a regular training programme conducted by BPPS in Advance



Certificate in Computer Applications under the National Vocational Training Programme run by the Department of Higher Education, Government of India in association with All India Information Technology.

4. Counsel for the respondent-State as well as the private respondent contend that the petitioner had submitted an application for being granted an opportunity to submit a certificate of having completed a course of computer applications, hence, it remains undisputed that the petitioner did not possess any educational qualification on the basis whereof his knowledge of computers could be assessed. Thus, he did not fulfill the basic requirement prescribed under the rules for being promoted to the post of Telephone Attendant and was thus rightfully ignored.

5. No other argument has been raised by the Counsel for the parties.

6. I have heard learned Counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith the present writ petition.

7. For adjudication of the present controversy, it would be apposite to make a reference to the Schedule ‘B’ appended to the Haryana Irrigation Department, Circle Cadre, Workmen Establishment Group C Service Rules, 2011 as applicable to the parties herein. The relevant extract thereof reads thus:-

<i>Serial Number</i>	<i>Designation of posts</i>	<i>Academic Qualification and experience, if any for direct recruitment</i>	<i>Academic Qualification & experience, if any for appointment other than by direct recruitment</i>



1	2	3	4
16	Telephone Attendant	(i) Matric with Hindi/Sanskrit (ii) 10 years experience in relevant field; and (iii) <u>Six months Certificate of Computer Applications</u>	By promotion Five years experience as Beldar in relevant field alongwith basic knowledge of computer. By Transfer/Deputation i) Matric with Hindi/Sanskrit ii) 10 years experience in relevant field; and iii) <u>Six months Certificate of Computer Applications.</u>

(Emphasis Supplied)

8. It is evident from a perusal of the same that for the post of Telephone Attendant, the requirement specifically prescribed was to possess a six months certificate of Computer Applications when a candidate was to be appointed either by way of a promotion or by way of transfer/deputation. While considering the appointment by way of a promotion, the requirement prescribed was only basic knowledge of computer and no Certificate of Computer Applications was required to be possessed by an individual.

9. The respondent-Department, in their reply have specifically taken an objection that the petitioner did not submit any document or certificate establishing his knowledge in Computer Applications and was



thus, held ineligible for the said reason. It was reiterated in preliminary submission in sub para (I) as well as (K) and that in the absence of any certificate being submitted by the petitioner to display his basic knowledge of computers, he could not be considered for promotion. It is further evident that no other methodology had been devised by the respondents for assessing as to whether a candidate possesses basic knowledge of computer applications or not. The same is not a legal compliance. Once the legislature had specifically stipulated that only a basic knowledge in computer applications is required to be possessed for promotion from amongst Beldars, the insistence of the respondents on submission of a certificate proving that he possesses knowledge of computer applications amounts to prescribing a qualification beyond the service rules. It was thus incumbent upon the respondents to devise a mechanism for assessing as to whether a candidate possesses basic knowledge of computer applications or not. Undisputedly, no such process was undertaken by the respondents.

10. Insistence by the respondents in seeking documents, beyond what has been stipulated under the service rules, amounts to an overreach. The omission by the Legislature was specific. It is not a case where the legislature is unaware of the requirement of a certificate course but take recourse to the specific exclusion of a certificate while considering a case for appointment to the post of Beldar by way of a promotion while such certificate has been retained as an essential qualification for appointment either by way of a direct recruitment or by way of transfer and deputation. The exclusions thus being conscious and deliberate, the insistence by the

**CWP-16279-2018**

-6-

respondents in still prescribing the same qualification, even for consideration of a claim of an employee for appointment by way of a promotion, amounts to an overreach by the authorities concerned and has undisputedly deprived the petitioner of his rightful consideration.

11. Under the given circumstances, I find that the action of the respondents in declining the candidature of the petitioner deserves to be set aside.

12. Counsel for the private respondents at this stage submits that he would have no objection to the petitioner being promoted w.e.f. the date they were promoted and being assigned seniority over and above them. A further prayer is made that the post of Telephone Attendants are still vacant and the private respondents may be ordered to be adjusted against the said vacant post.

13. Considering the aforesaid fair stand adopted by Counsel for the private respondents, the present writ petition is allowed with the following directions:-

- i) That the impugned order dated 08.02.2018 is set aside to the extent whereby the petitioner has not been promoted. The respondents are directed to promote the petitioner w.e.f. the said date i.e. 08.02.2018 itself and to place him at a seniority position over and above his juniors.
- ii) The petitioner shall be granted notional benefit w.e.f. the said date for the pay fixation, seniority and promotion, however, the actual benefits shall enure in his favour from the date of passing



CWP-16279-2018

-7-

of this order (or from the date when he was actually promoted, whichever is earlier).

- iii) The respondent-Superintending Engineer, who had passed the impugned order, is further directed to pay a **costs of Rs.1 lakh out of which Rs. 50,000/- to be paid to the petitioner and Rs. 50,000/- to be deposited with the “*Poor Patients Welfare Fund*’ of the *Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh*”** in misreading the plain and simple statute in such a manner notwithstanding that there was no possibility of confusion while interpreting the said provision, and despite having departmental legal assistance.

14. Such casual misreading of plain and simple statutory provision has led to not only an unnecessary litigation causing financial burden on the petitioner but also delayed his promotion for a period of nearly 07 years which could have been wholly avoided by an ordinary diligence and intelligence.

15. Let the aforesaid cost be deposited within a period of two months of a receipt of certified copy of this order.

(VINOD S. BHARDWAJ)
JUDGE

JULY 09, 2025
Vishal Sharma

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No