
(2016) 03 P&H CK 0067
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 18619 of 2014

Gurmeet Singh & another

APPELLANT

Vs

Bharat Sanchar Nigam Limited & others

RESPONDENT

Date of Decision : 01-03-2016

Acts Referred:

Constitution of India, 1950 — Article 14
Junior Telecom Officer Recruitment Rules, 2001 — Clause (I) under Column 12 of the Schedule

Citation : (2016) 2 SCT 796

Hon'ble Judges : M. Jeyapaul; Raj Mohan Singh, JJ.

Bench : Division Bench

Advocate : D.R. Sharma, Advocate, for the Respondent

Final Decision : Allowed

Judgement

M. Jeyapaul, J. - These writ petitioners sought to quash the impugned Clause (I) under Column 12 of the Schedule of the Junior Telecom Officer (JTO) Recruitment Rules, 2001 and the circular dated 16.2.2013 issued for filling up the post of JTO on the basis of Limited Internal Competitive Examination (LICE) pursuant to the above Recruitment Rules, 2001. In the alternative, the writ petitioners prayed for a direction to allow them to participate in the selection process through LICE treating them duly eligible for promotion to the posts of JTO. But the Central Administrative Tribunal, Chandigarh Bench (for short "Tribunal") dismissed the above prayers made by the writ petitioners on the ground that the selection process through LICE has been undertaken by the respondents only in accordance with JTO Recruitment Rules, 2001. Aggrieved by the above decision taken by the Tribunal, the writ petitioners have filed these writ petitions.

2. On 17.7.1996, the writ petitioners joined the Department of Telecommunication as Technicians with the educational qualification of 3 years Diploma in Mechanical Engineering in the restructured cadre. The writ petitioners were designated as Telecom Technical Assistants (TTAs) in the year 1999. The

promotion from the post of TTA to the post of JTO is governed by the Junior Technical Officer Recruitment Rules, 2001. Column 12 of these Rules provides that promotional quota posts of JTOs shall be filled up on the basis of LICE from amongst the various posts of Group-C including the posts of TTAs having the following qualification inter alia:-

"Bachelor of Engineering/Bachelor of Technology or Equivalent Engineering Degree in any of the disciplines viz. Telecommunications/Electronics/Electrical/Radio/Computer.

OR

Bachelor of Science with Physics and Mathematics.

OR

3 years Diploma in Telecom/Electronics/Electrical/Radio/Computer."

3. As per the above Rules, the writ petitioners do not fulfill the prescribed educational qualification, as 3 years Diploma in Mechanical Engineering has not been mentioned under Column 12 of the Schedule attached to the 2001 Rules. Therefore, the petitioners were declared ineligible for participation in LICE, 2013.

4. It is the contention of the respondents that the writ petitioners had no locus standi to file the Original Application before the Tribunal to include the qualification of 3 years Diploma in Mechanical Engineering so as to make them eligible for promotion to the post of JTO. It is the stand of the respondents that the Courts do not have any jurisdiction to direct the Authorities to change the qualification and experience required for the post.

5. Learned counsel appearing for the writ petitioners vehemently submitted that it was discriminatory to exclude the Diploma in Mechanical Engineering from the qualification prescribed for participation in LICE. The arbitrariness is writ large in prescribing the qualification for examination. Now wisdom had dawned on them to include Diploma in Mechanical Engineering also as one of the qualifications for participating in LICE. It is his further submission that the writ petitioners were permitted by virtue of the interim order passed by the learned Tribunal to participate in LICE, 2013 alongwith the other eligible candidates. The results be declared and the petitioners be also promoted alongwith the other eligible candidates, it was submitted.

6. Per contra, learned counsel appearing for the official respondents vehemently submitted that the writ petitioners have been excluded from the LICE, 2013 only in terms of JTO Recruitment Rules, 2001. The Courts cannot introduce the qualification which was not thought of by the employer. Inasmuch as the Diploma in Mechanical Engineering was since included as one of the qualifications for appearing for LICE w.e.f. 14.10.2015, the writ petitioners are at liberty to appear for LICE to make themselves qualify for promotion to the post of JTO, it was submitted.

7. We gave our anxious thought to the above submissions made by the counsel appearing on either side, in the background of JTO Recruitment Rules, 2001 and the JTO (Telecom) Officers Recruitment Rules, 2014 which came into effect on 14.10.2015.

8. If we closely scan the qualifications prescribed in the Junior Telecom Officer Recruitment Rules, 2001, we can very easily come to the conclusion that it is in fact discriminatory. Bachelor of Science with Physics and Mathematics or 3 years Diploma in Electrical as well had been prescribed as the qualification for appearing for LICE conducted for promotion to the JTO cadre. When Mathematics and Electrical discipline were found suitable for such a post, we fail to understand why Diploma in Mechanical Engineering had not been considered as a suitable qualification for appearing for the above test for promotion to JTO cadre. In our considered view, the service of holder of Diploma in Mechanical Engineering cannot be underrated with the performance of the Bachelor of Science with Mathematics or 3 years Diploma in Electrical Engineering. Further, there is no dispute to the fact that the writ petitioners have been discharging the very same nature of duties as that of the other employees recruited with different qualification. Further, it is not as if the post of JTO is filled up by considering the seniority alone. Limited Internal Competitive Examination (LICE) is conducted to test the capability of the candidates to occupy the promotion posts of JTO. If a 3 years Diploma holder in Mechanical Engineering is incapable of passing the LICE conducted by the respondents, he cannot claim any promotion to the post of JTO cadre against the quota prescribed therefor.

9. It is found that the writ petitioners in fact appeared for LICE, 2013 alongwith other candidates as per the interim orders passed by the learned Tribunal, but their result has been withheld as the case filed by the writ petitioners had not attained finality. After all, the writ petitioners, if at all they pass the test, would occupy the JTO cadre. Nothing has been demonstrated before the Court that a Diploma holder with Mechanical Engineering cannot efficiently administer the post of JTO.

10. We cannot also lose sight of the latest development which culminated in framing of the fresh Recruitment Rules of Junior (Telecom) Officer, 2014, superseding the Recruitment Rules of Junior (Telecom) Officer, 2001 permitting 3 years Diploma holders in Mechanical Engineering to appear for LICE for promotion to the post of JTO. A discriminatory and arbitrary exercise which culminated in prescription of qualifications excluding 3 years Diploma in Mechanical Engineering in the above 2001 Rules has been rectified in 2014 Rules.

11. In view of the above, we have no hesitation to hold that Clause- (I) under Column 12 of the Schedule of Junior Officer (Telecom) Recruitment Rules, 2001 is not only discriminatory, but arbitrary and as such violative of Article 14 of the Constitution of India. But quashment of the above provision has become redundant in view of enactment of Junior (Telecom) Officer Recruitment Rules, 2014 superseding Junior (Telecom) Officer Recruitment Rules, 2001. But, at any

rate, the impugned circular dated 16.2.2013 excluding the scope of the writ petitioners to participate in the LICE, 2013 is quashed and the respondents are directed to announce the result of the writ petitioners who participated in the LICE, 2013 within 15 days from the date of receipt of copy of this judgement and in case they have cleared the examinations, they be promoted notionally to the cadre of JTO w.e.f. the date their juniors have been promoted with all consequential financial benefits from the date they joined the promotional post of JTO.

12. In view of the above facts and circumstances, the impugned order passed by the Tribunal is set aside and the writ petitions are accordingly allowed.