

(2021) 04 SHI CK 0110

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 2721, 2775, 3239, 3240 Of 2019, 1342 Of 2020

Purshotam Kumar And Others

APPELLANT

Vs

State Of Himachal Pradesh & Another

RESPONDENT

Date of Decision : 06-04-2021

Acts Referred:

Citation : (2021) 04 SHI CK 0110

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Sanjeev Bhushan, Rajesh Kumar, Vinod Chauhan, Ajay Vaidya, Sanjeev Kumar, Rajender Thakur, Angrez Kapoor

Final Decision : ?Allowed

Judgement

Ajay Mohan Goel, J

1. As common issues of law and facts are involved in these petitions, they are being disposed of by a common judgment.
2. The grievance of the petitioners is with regard to rejection of their candidature to the post of Junior Office Assistant, which post stood advertised by the respondent-Commission vide advertisement No.32-3/2016 (See:- Annexure P-2, in CWP No.1342 of 2020; Annexure P-1, in CWP No.2721 of 2019; Annexure P-2, in CWP No.2775 of 2019; Annexure P-2, in CWP No.3239 of 2019; Annexure P-2, in CWP No.3240 of 2019), appended with these petitions.
3. Brief facts necessary for the adjudication of the present petitions are, that vide advertisement No.32-3/2016, which was issued in the month of September 2016, various posts were advertised by the respondent-Commission, to be filled up in various departments of the Government of Himachal Pradesh. This also included the posts of Junior Office Assistant (on contract basis), in the pay scale of 5910-20200+1950 (GP). The number of posts advertised in the advertisement were 704, which the Court stands informed, were subsequently increased to 1156, in various departments including department of Excise and Taxation.

Incidentally, though the advertisement reflected that the post is to be filled up on contract basis, but as far as department of Excise and Taxation is concerned, against this particular department, 85 posts were reflected, which were to be filled up on regular basis. The eligibility criteria, inter alia, envisaged the following qualifications to be possessed for the prospective candidates:-

556. Junior Office Assistant

- i. 10+2 from a recognized Board of School Education/University.
- ii. One year diploma in Compute Science/Computer Application/Information Technology from a recognized University/Institution.
- iii. Computer typing speed of 30 words per minute in English or 25 words per minute in Hindi.

OR

- i 10+2 from a recognized Board of School Education/University.
- ii. 'O' or 'A' level Diploma from National Institute of Electronics & Information Technology (NELIT).
- iii. Computer typing speed of 30 words per minute in English or 25 words per minute in Hindi.

OR

- i. 10+2 from a recognized Board of School education/University.
- ii. Diploma in Information Technology (IT) from a recognized ITI/Institution.
- iii. Computer typing speed of 30 words per minute in English or 25 words per minute in Hindi.

There after, vide notifications ((See:- notification dated 23.02.2019, Annexure P-6, in CWP No.1342 of 2020; notification dated 17.09.2019, Annexure P-8, in CWP No.2721 of 2019; notification dated 23.02.2019, Annexure P-6, in CWP No.2775 of 2019; notification dated 17.09.2019, Annexure P-7, in CWP No.3239 of 2019; notification dated 23.02.2019, Annexure P-5, in CWP No.3240 of 2019), appended with the present petitions, the final/revised result on the basis of written objective test etc. was declared by the respondent-

Commission and this is where the grievance of the petitioners originates that when petitioners made enquiries, as to why their names are not in the selection list, they stood informed that their applications stood rejected on the ground that qualification so possessed by them was not valid for the purpose of appointment to the post in issue.

4. In these petitions, on the directions issued passed by this Court, today the respondent-Commission produced the original Application Form submitted by the petitioners alongwith the documents appended therewith.

5. I have heard learned counsel for the parties and gone through the documents

appended with the pleadings.

6. As, I have already mentioned hereinabove, the qualifications mentioned in the advertisement rendering a candidate eligible for appointment to the post of Junior Office Assistant, inter alia, were one year diploma in Computer Science, Computer Application, or Information Technology, from a recognized University/ Institution. The diplomas, which are possessed by the petitioners in these petitions are as under:-

'In CWP No.1342 of 2020-Diploma in Computer Application from the Institute of Computer Tally Organization.

In CWP No.2721 of 2019- Diploma in Computer Application from the Society for Information Technology Development.

In CWP No.2775 of 2019- Diploma in Software & Information Technology from Himachal Computer Center.

In CWP No.3219 of 2019- Diploma in Computer Application from the Centre for Advance Learning in Computers.

In CWP No.3240 of 2019- Diploma in Computer Application from Centre of Advance Learning in Computers.

7. On a pointed query put forth by the Court to learned counsel appearing for the respondent-Commission, as to on what basis, the qualification so possessed by the petitioner was not a valid qualification as per the respondent-Commission, they submitted on the basis of instructions that the eligibility of petitioners was tested by the Commission, on the basis of report of a Committee, dated 21.08.2017, which was constituted in compliance to the orders of this Court, passed on 21.05.2019, in CWP's No.161 and 629 of 2019 and the Committee was to examine and give its recommendations on the following issues:-

"(i)Equivalence of the academic/technical qualifications prescribed under the Recruitment & Promotion Rules for the post of Junior Office Assistant (IT).

(ii) Recognition of the institutions imparting trainings and running courses in computer/IT related subjects.

(iii) Higher qualifications vis-à-vis the minimum essential and other qualifications prescribed under the Recruitment & Promotion Rules for the post."

8. This Committee after due deliberation, held as under:-

"Thus, keeping in view the facts and circumstances narrated as above, the Committee unanimously concluded that no equivalent qualification can be considered/recommended in the absence of a specific clause to this effect in the R& P Rules.

(ii)Recognition of various Institutions/ Training Centres

The Members Secretary informed that the HPSSC, Hamirpur had formed an internal Committee to ascertain the eligibility of candidates for posts of JOA(IT). This Committee went through the documents of all the candidates and segregated them in different groups based on their qualifications and recognition of their institutes. It was informed that a large number of candidates had obtained their qualifications from unrecognized institutes and thus their candidature was rejected by the Commission.

The Committee then examined and discussed the report of the internal Committee in detail. The Committee further deliberated on the issue of recognition of institutes and it was unanimously felt that no impart quality training, an institute must have following attributes:-. Training Faculty

- . Well defined curriculum
- . Well defined system of instructions
- . Well defined system of assessment
- . External evaluation and certification
- . Good Infrastructure
- . Affiliation to any Government body or regulatory agency
- . Inspection by external agencies.

The Committee was in consensus that any institute lacking above attributes will not be able to provide quality training and essential skills and the candidates possessing any qualification from such institutions cannot be considered for public service as per R&P Rules. It was also deliberated in the meeting that a number of such institutes have mushroomed all over the State and are neither imparting quality education nor essential skills in computer education. On the other hand, the Institutes affiliated/recognized by Regulators/ Government agencies like UGC/AICTE/ SCVT/ NCVT etc. have well established infrastructure, defined curriculum, evaluation system, trained faculty etc. Thus, it is clear that the recognized affiliated Institutes are only able to impart required skills and quality education to the students and have all the attributes mentioned in the proceeding para.

Thus, keeping in view, the Committee agreed that only qualifications obtained from recognized institutes be considered for recruitment of JOA(IT) and the ZONE OF CONSIDERATION/ Selection cannot be expanded after the start of the selection process."

9. The report of the aforesaid Committee was made available to the Court today for the purpose of perusal, during the course of hearing, by learned counsel for the parties.

10. In the considered view of this Court, even if the contention of the respondent-Commission that it contested the eligibility of the petitioners on the basis of

report of the Committee has to be accepted, then also the respondent-Commission was duty bound to have had passed some kind of order in the case of petitioners, holding the qualification possessed by petitioners, to be an invalid qualification. This admittedly was not done. In the absence of the same and further in the absence of any competent authority having held that the Institutions, from which petitioners had obtained the diplomas, were unrecognized or the diplomas of petitioners were unrecognized, the candidature of petitioners could not have arbitrarily rejected, as has been done by the respondent-Commission.

11. In fact, no material has been placed on record by the respondent-Commission to substantiate that the diplomas possessed by petitioners or the institutions, from which the diplomas have been gained by petitioners, are either bad or not recognized, especially as the respondent-Commission was in possession of the diplomas of the petitioners.

12. In these circumstances, the act of the respondent-Commission of holding the petitioners to be ineligible for consideration to the post in issue, is highly arbitrary.

13. Accordingly, these writ petitions are allowed, to the extent that rejection of the candidature of petitioners by respondent-Commission, is held to be bad and respondent-Commission is directed to reassess the candidature of petitioners, for the post in issue on the basis of merit secured by them in the recruitment process. In case, the petitioners are eligible for appointment, then the same be offered to them against unfilled/vacant post, without disturbing the appointed candidates. Petitions stand disposed of, so also pending miscellaneous applications, if any. Interim order, if any, stands vacated.