



6)

CWP-22639-2018

Rishi Raj and others

....Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Sunil Kumar Nehra, Advocate
for the petitioner (in CWP No.22644 of 2018).Mr. Jasbir Mor, Advocate
for the petitioner(s) (in CWP-20849-2018,
CWP-21269-2018, CWP-21464-2018 & CWP-22639-2018).Mr. Naresh Kaushik, Advocate
for the petitioner (in CWP-22645-2018).

Mr. Piyush Khanna, Addl.A.G., Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This common order shall dispose of the aforementioned civil writ petitions as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from CWP-22644-2018.

2. The present civil writ petition(s) has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned notice/announcement dated 28.08.2018 (Annexure P-3) vide which the petitioner has not been called for interview for the post of Auction Recorder Category No.19 advertised vide advertisement No.7/2015 dated 10.07.2015 (Annexure P-1).

3. Learned counsel for the petitioner(s) *inter alia* contends that admittedly in the advertisement, the essential qualification was provided as a certificate in computer with a minimum duration for six months from a recognized institution. The advertisement was issued on 10.07.2015 and at that



time, there was no list available with respondents No.2 & 3 of recognized institutes. The list was issued only on 07.09.2018. Be that as it may, the petitioner is B.Tech. and also having Masters of Technology (Electronics & Communication Engineering), as such, the petitioner's claim cannot be rejected as he is having higher qualification. The issue with regard to the entitlement of a candidate having higher qualification is settled by a Full Bench of this Court in 'Manjit Singh vs. State of Punjab and others', 2010 (3) SCT 703 and by the Hon'ble Supreme Court in the case of 'Chandra Shekhar Singh and others vs. The State of Jharkhand and others', 2025 SCC Online SC 595. The petitioners in other writ petitions had applied for the advertised posts, however, they have not been called for the interview on the ground that they are not possessing certificates of computer course as prescribed in the advertisement. Thereafter, some of the candidates who are similarly situated have been allowed to participate in the interview pursuant to the interim order passed by this Court. Learned counsel for the petitioner(s) relies upon the judgment dated 26.05.2023 passed by the Coordinate Bench of this Court in CWP No.21768 of 2018 titled as 'Jyoti Vs. State of Haryana and others' and submits that the issue involved in the present case has already been settled. The respondents have preferred a Intra Court Appeal which has been dismissed vide order dated 21.11.2023 passed in LPA No.1815 of 2023 titled as 'Haryana Staff Selection Commission Vs. Suresh Kumar and another' and even the SLP preferred before the Hon'ble Supreme Court was dismissed on 20.08.2024. The case of the petitioner is squarely covered by the order passed by this Court and upheld upto the Hon'ble Supreme Court. The relevant extract of the order passed by the Hon'ble Supreme Court is reproduced as under:-



“5. We have heard learned counsel appearing for the Commission at some length and are of the considered opinion that the special leave petition is wholly without merit. However, having regard to the lapse of time since the selection process was conducted and the nature of the order of the learned Single Judge, since affirmed by the Hon'ble Division Bench, we are not inclined to leave the matter by simply dismissing the special leave petition. In the interests of justice, certain other directions are called for, to avoid future litigation, and this is what we propose to do in exercise of our power under Article 142 of the Constitution.

6. The Commission took a decision as late as on 10th September, 2018 to identify and specify institutes which would qualify as a 'recognized institute for the purpose of the advertisement dated 10th July, 2015. We have failed to comprehend the logic behind applying the decision to the advertisement, which was issued more than three years earlier on 10th July, 2015. Had the advertisement specified which of the institutes would qualify as a recognized institute, the aspirants for the post would have known about his or her eligibility Suresh Kumar found that he was eligible on the terms of the advertisement and had applied for appointment. Clearly, the Commission changed the rules of the game after the game had commenced, and particularly when such process was on the verge of completion, much to the detriment of Suresh Kumar by rendering him altogether disqualified to participate in the process on the ground of lack of requisite qualification. This was an impermissible exercise.

7. Apart from the aforesaid, no other disqualifying factor has been brought to our notice.

8. Leaving it open to the Commission to undertake a further process as to whether Suresh Kumar is otherwise eligible as directed by the learned Single Judge, is likely to generate further litigation. This, we perceive, from the conduct of the Commission in not gracefully accepting the impugned judgment and order of the High Court.

9. While dismissing this special leave petition, we direct the



Commission to issue appropriate recommendation for the Board to act upon. The Commission shall immediately, but not later than 3 (three) weeks from date, recommend Suresh Kumar for appointment whereafter he shall be offered an appointment on the post of Mandi Supervisor-cum-Fee Collector. If any such post under Scheduled Caste category is not available as on date, a supernumerary post shall be created which shall be personal to Suresh Kumar. The appointment of Suresh Kumar shall relate back to the date on which the last candidate from the panel of Scheduled Caste category came to be appointed. From such date, Suresh Kumar shall be treated to be in continuous service for the purpose of only retiral benefits. Suresh Kumar shall obviously not be entitled to any financial benefit for any period he has not served but shall be entitled to pay and allowances with effect from the date of his appointment.

10. Pending application(s), if any, shall stand disposed of.”

4. The learned State counsel could not controvert the above cited order of the Hon'ble Supreme Court and submits that the claim of the petitioner(s) would be considered in the light of the order passed by this Court as well as by the Hon'ble Supreme Court.

5. The dispute in the instant petitions is confined to validity of computer course certificate for the posts in question. The petitioners are claiming that they are possessing requisite certificate whereas respondent is claiming that certificate cannot be accepted because it is contrary to its instructions.

6. This Court in afore cited judgments has already decided the issue in favour of many candidates. The Hon'ble Supreme Court has upheld orders of this Court. Each petitioner is having separate kind of computer course



certificate. The case of every petitioner needs to be examined in light of afore-cited judgments. Accordingly, the respondents are hereby directed to consider case of each petitioner in the light of afore-cited judgments. The respondents would pass speaking order in the case of each petitioner after granting him opportunity of hearing. If any petitioner is selected, he would be entitled to consequential benefits as granted by the Hon'ble Supreme Court in afore-cited order dated 20.08.2020. Needful shall be done within a period of six months from the date of receipt of certified copy of this order. Needless to say, the notional benefits of pay protection as per the merit list would be given to the petitioner(s), in case they found entitled. However, they would not be entitled to any pay for the period prior to their joining.

7. Accordingly, all the above mentioned writ petitions are disposed of. Pending miscellaneous applications, if any, shall also stand disposed of.

8. A photo copy of this order be placed on the file of connected cases.

(HARPREET SINGH BRAR)
JUDGE

09.09.2025

Neha

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