

18247, 18160, 18159, 018480, 018478,
20456, 018703, 18158

D.P.

✓ W - 7
Disposed of

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

1. State of Haryana through its Secretary,
Health Department, Haryana, Civil
Secretariat, Chandigarh.
2. Director General, Health Services Haryana,
Sector-6, Panchsukla (Haryana).
3. Haryana Staff Selection Commission, Bayt No. 67-70,
Sector-2, Panchsukla (Haryana) through its Secretary

- ① CWP No. 16540/10 - Suresh & Others.
- ② CWP No. 17610/10 - Sominder & Others.
- ③ CWP No. 17187/10 - Sanjay Kumar & Others.
- ④ CWP No. 18109/10 - Ved Parkash & Others.
- ⑤ CWP No. 18793/10 - Dharambir & Others.

SUBJECT :- CIVIL WRIT PETITION No. _____ OF _____
Petitioner(s)

Versus

State of Haryana & Others Respondent(s)

Sir,

In the continuation of this Court's order dated _____, I am directed to forward herewith a copy of order dated 28/1/2011 & copy of order dtd. 15/2/2011 passed by the Hon'ble High Court in the above noted Civil Writ Petition, for immediate strict compliance, alongwith a copy of Annexure P-5.

Given under my hand and the seal of This Court on 17th day of Feb. Jan 2011.

BY ORDER OF THE PUNJAB AND HARYANA HIGH COURT, CHANDIGARH.


Superintendent (WRITS)
for Assistant Registrar (WRITS)

2011

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CIVIL WRIT PETITION NO. 16540/2010

1. Suresh son of Sh. Nafe Singh, R/o V&PO Kheri Sadh, Tehsil Sampla, District Rohtak (Haryana).
2. Satinder Singh S/o Sh. Jai Karan, R/o V&PO Bahu Akbarpur, Tehsil & District Rohtak (Haryana).
3. Mohinder Singh S/o Sh. Chander, R/o V&PO Banchari, Tehsil Hodal, District Palwal (Haryana).
4. Ilyas S/o Sh. Nashrudeen, R/o V&PO Nai, Tehsil Punhana, District Mewat (Haryana).
5. Parveen Kumar S/o Sh. Ram Pal Malik, R/o V&PO Nangal Kheri, Tehsil & District Panipat (Haryana).
6. Muzzafer Hussain S/o Sh. Abdul Gaffar, R/o V&PO Biwan, Tehsil Ferozepur Jhirka, District Mewat (Haryana).
7. Fakruddin S/o Sh. Bandu Khan, R/o V&PO Punhana, Ward No.5, Harizan Colony, District Mewat at Nuh (Haryana).
8. Virender Singh Arya S/o Sh. Prem Chand, R/o V&PO Jawahra, Tehsil Gohana, District Sonapat (Haryana).
9. Ombir S/o Sh. Rameshwar Dayal, R/o V&PO Kosli, Tehsil Kosli, District Rewari (Haryana).
10. Krishan Kumar S/o Sh. Dayanand, R/o V&PO Pandu Pindara, Chabri Colony, District Jind (Haryana).

...Petitioners

Versus

- Rup*
1. State of Haryana through its Secretary, Health Department, Haryana, Civil Secretariat, Chandigarh.

2. Director General, Health Services Haryana, Sector-6, Panchkula (Haryana).
3. Haryana Staff Selection Commission, Bays No. 67-70, Sector-2, Panchkula (Haryana) through its Secretary.

...Respondents

CIVIL WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR THE ISSUANCE OF A WRIT IN THE NATURE OF CERTIORARI TO QUASH THE ACTION OF THE RESPONDENTS NO.1 AND 2 BY WHICH THE CANDIDATES LOWER IN MERIT TO THE PETITIONERS HAVE BEEN APPOINTED AS MULTIPURPOSE HEALTH WORKER (MALE) AND PETITIONERS HAVE BEEN DEPRIVED AND FURTHER A WRIT IN THE NATURE OF MANDAMUS BE ISSUED TO CONSIDER THE CLAIM OF THE PETITIONERS FOR APPOINTMENT AS MULTIPURPOSE HEALTH WORKER (MALE) FROM THE DATES LOWER IN MERIT TO THE PETITIONERS HAVE BEEN APPOINTED AND THE PETITIONERS BE GRANTED ALL CONSEQUENTIAL BENEFITS.

RESPECTFULLY SHOWETH

1. That the petitioners are residents of Haryana State and being the citizens of India, they are entitled to invoke the extra ordinary writ jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India.
2. That the Haryana Staff Selection Commission vide advertisement no. 3/2008 advertised 235 posts of Multipurpose Health Worker (Male) on 7.6.2008 and last date of submission of the applications was 7.7.2008. The relevant portion of the advertisement is reproduced below for ready reference:-

"Health Services (Malaria) Haryana

Cat. No. 1

235 posts of Multipurpose Health Worker (Male)

Gen. 102, SC-42, BCA-34, BCB-24, ESM Gen. 18, ESM (SC)-5, ESM (BCA)-5, ESM (BCB)-7.

E.Q.

1)

Matric

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

C.W.P. No.16540 of 2010

DATE OF DECISION : 28.1.2011

PUNJAB & HARYANA HIGH COURT

1. C.W.P. No.16540 of 2010
Suresh and others v. State of Haryana and others.
2. C.W.P. No.17610 of 2010
Sominder and others v. State of Haryana and others.
3. C.W.P. No.17187 of 2010
Sanjay Kumar and others v. State of Haryana and others.
4. C.W.P. No.18109 of 2010
Ved Parkash and others v. State of Haryana and others.
5. C.W.P. No.18793 of 2010
Dharambir and others v. State of Haryana and others.

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present:- Shri R.K.Malik, Senior Advocate with Shri Kohal Sharma, Advocate for the petitioners (in C.W.P. Nos.16540,17187,17610 of 2010).

Shri Gurinderpal Singh, Advocate for the petitioners (in C.W.P. No.18793 of 2010).

Shri Sandeep Sharma, Advocate for the petitioners (in C.W.P. No.18109 of 2010).

Shri Kartar Singh, D.A.G. Haryana.

MAHESH GROVER, J.

By this judgment, I will be disposing of C.W.P. Nos.16540, 17187, 17160, 18109 and 18793 of 2010, as they involve commonality of facts.

The petitioners assail the selection to the post of Multi Purpose Health Workers Male conducted by the Haryana Staff Selection Commission who had advertised 235 posts on 7.6.2008. The relevant extract of the advertisement is as below :-

“Health Services (Malaria) Haryana

Cat.No.1	235 posts of Multipurpose Health Worker(Male) Gen.102, SC-42, BCA-34, BCB-24, ESM Gen. 18, ESM (SC)-5, ESM(BCA)-5, ESM(BCB)-7.
E.Q.	1) Matric 2) Multipurpose Health Workers Training Course from an Institution approved by the Govt. 3) Hindi/Sanskrit up to Matric standard.
Age :	17 to 40 years.
Pay scale	Rs.4000-6000/-”.

The said advertisement was followed by a corrigendum and the posts were increased from 235 to 785 and the time for submitting applications was extended from 7.10.2008 to 22.10.2008.

The petitioners have acquired their Multi Purpose Health Worker Diploma from Janardhan Rai Nagar Rajasthan Vidyapeeth University, Udaipur (Rajasthan) as regular students. They were interviewed and their claims were considered against the categories in which they had applied. In C.W.P. No.16540 of 2010, all the petitioners belong to the general category except petitioner Nos.7,9

and 10 who belong to BCA, BCB and SC categories respectively. All the petitioners found their name in the selection list issued on 1.8.2010. The petitioners were, however, denied appointment as the persons lower in merit were given preference on the ground that the qualification of having acquired diploma from Janardhan Rai Nagar Rajasthan Vidyapeeth University, Udaipur(Rajasthan) was not recognized by the respondents as a valid degree.

With this grievance, the petitioners have approached this Court under Articles 226/227 of the Constitution of India and when the respondents were put to notice, they filed their reply to the averments made in the writ petition and while admitting the factual matrices, took up the plea that the case of the petitioners was not considered on the ground that the Janardhan Rai Nagar Rajasthan Vidyapeeth University, Udaipur(Rajasthan) is not an approved/recognized University by the Government of India.

Learned counsel for the petitioners, in the backdrop of the facts and controversy, referred to a Division Bench judgment of this Court in C.W.P. No.12161 of 2006 *Manoj Kumar and others v. State of Haryana and others* decided on 1.11.2006 (copy of judgment attached as Annexure P-5 with the petition) and submitted that this very question had come up for consideration before the Division Bench and while accepting the petition, this Court observed as follows :-

“On the basis of principle as well as precedent mentioned above, it must be concluded that a diploma certificate issued by a deemed University like Rajasthan Vidya Peeth has to be held as valid because the University Grant Commission vide its notification dated 19.8.2003 has conferred upon Rajasthan Vidya Peeth, Udaipur, the status of deemed University under section 3 of the 1956 Act. Once it is so, then the respondent-

state or any of its agencies cannot be permitted to de-recognize such degree or diploma, because such an action on their part would be repugnant to the provisions of Article 254 of the Constitution of India. We are further of the view that the argument of the learned State counsel that only those certificate courses are accepted by the respondent-State which are from an institution approved by the Haryana Government cannot be accepted as it would amount to keeping out of eligible candidates merely because they have obtained their qualifications from a University or an institution outside the state of Haryana. However, such a course would not be available to the respondent-state because other institutions located in the country have been conferring the similar type of diploma certificates which are in no way inferior to the one approved by the respondent State. As per their own instructions dated 18.3.1975 all those degrees and diplomas which have been awarded by the recognized universities and by the Boards established by the State Government for high/higher secondary were ipso facto recognized. The instruction further provided that those degrees and diplomas which are recognized by the Government of India are deemed to be recognized by the respondent-State. There is nothing contrary in the instructions issued on 2.11.1999 and therefore, the diploma certificate issued by the Rajasthan Vidya Peeth must be recognized as a requisite qualification fulfilling the requirement of multipurpose health workers training course as postulated by the advertisement dated 7.5.2006.”

PUNJAB & HARYANA HIGH COURT

Learned counsel for the respondents could not effectively make any distinction in the case of the present petitioners and those who had filed C.W.P. No.12161 of 2006.

Having regard to the aforesaid, when the controversy stands conclusively answered by a Division Bench of this Court and there being no justifiable distinction made by the learned counsel for the respondents between the case of the petitioners and the case of the petitioners in C.W.P. No.12161 of 2006, I am further of the opinion that there is no justifiable reason for the respondents to decline the claim of the petitioners.

The writ petitions are thus allowed in the same terms as in C.W.P. No.12161 of 2006.

sd/ (MAHESH GROVER)
JUDGE

January 28, 2011

GD

True copy

WHETHER TO BE REFERR

EXAMINER

*Counsel DfA
DfA added
May issue
settled
17/2/11*

*for
S. C. 17/2*