

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

CWP No. 5203 of 2010

Date of Decision : January 23, 2012

Narendra Singh Yadav

.... PETITIONER

Vs.

State of Haryana

..... RESPONDENT

CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

* * *

Present : Mr. R.K.Malik, Sr. Advocate,
with Mr. Vijay Dahiya, Advocate,
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

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AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in this writ petition is for issuance of a writ of mandamus to consider the claim of the petitioner for appointment as Assistant Engineer (Civil) from the date, his other batch mates were appointed and for grant of all consequential benefits.

Petitioner, who is an ex-serviceman, in response to an advertisement dated 07.08.2008 issued by the Haryana Staff

Selection Commission for filling up 30 posts of Assistant Engineer (Civil), applied. Out of these 30 posts, two posts were reserved for ex-servicemen category. Petitioner, after going through the selection process, was selected and his name recommended to the Government by the Haryana Staff Selection Commission for appointment to the post of Assistant Engineer (Civil). He was waiting for his appointment letter but he did not receive the same. Thereafter, he came to know that another candidate, who was selected against the post of an ex-serviceman and was, as a matter of fact, dependent of the ex-serviceman, was offered appointment in August, 2009. He, thereafter, approached the respondents and he came to know that his candidature has been rejected on the ground that he did not possess a degree in Engineering (Civil). It is at this stage that the petitioner has approached this Court by way of present writ petition praying for issuance of a writ of mandamus for appointment to the post of Assistant Engineer (Civil).

Counsel for the petitioner contends that the petitioner is eligible for appointment to the post of Assistant Engineer (Civil) and the contention of the respondent for not issuing him the appointment letter as he does not hold such a degree, is totally misconceived. He contends that the petitioner passed three years diploma course in Civil Engineering from Haryana Polytechnic, Nilokheri and was issued Diploma of the Haryana State Board of Technical Education on 21.01.1986 (Annexure P-1) and he has technical experience of more than 18 years. He contends that as per the decision of the

Government of India dated 26.05.1977 relating to Recognition of Technical and Professional Qualifications, it has been held that a Diploma in Engineering in appropriate discipline plus total ten years of technical experience in the appropriate fields will be treated and recognized as equivalent to Degree in Engineering. The same will be treated valid for the purposes of selection to Gazetted posts and services under the Central Government or State Government. This decision of the Central Government is applicable to the State of Haryana in the light of the letter dated 18.03.1975 issued by the Education Commissioner and Secretary to Government of Haryana (Annexure P-5), wherein a Policy Decision has been taken with regard to recognition of different types of qualifications for appointments and Clause 1 thereof provides that the degrees and diplomas etc., which are recognized by the Government of India, will be deemed to be recognized by the Haryana Government. He, on this basis, contends that the petitioner having the requisite Diploma and the experience was holding qualification equivalent to a Degree in Engineering and thus, entitled to the appointment to the post of Assistant Engineer, for which he was duly selected by the Haryana Staff Selection Commission. Reliance has also been placed on a Division Bench judgment of this Court passed in CWP No. 17974 of 2006 of 2006 titled as **Devinder Singh Malik vs. Haryana Power Generation Corporation Limited, Panchkula and others**, decided on 10.01.2008 (Annexure P-7), wherein this very issue has been considered and decided by the Court holding the

petitioner therein entitled to the appointment to the post of Assistant Engineer.

Counsel for the respondent, on the other hand, has submitted that the petitioner is not entitled to the appointment as he does not fulfill the educational qualification as per the advertisement, which required a degree from a recognized University or one of the other qualifications in Civil Engineering as specified in Appendix-B of Punjab Service of Engineers Class-II PWD (B&R) Branch Rules, 1965 (hereinafter referred to as 'the Rules, 1965'). Petitioner does not have a degree in Civil Engineering nor any other qualification, which is specified in Appendix-B of the Rules, 1965 governing the service and, therefore, not entitled to the appointment of Assistant Engineer and has, therefore, rightly not been issued the appointment letter. His further contention is that Government of Haryana, vide its decision dated 20.01.2012, has referred the matter to the Central Government for reconsideration of the decision taken by the Central Government dated 26.05.1977 granting equivalence of a Diploma in Engineering along with 10 years of technical experience to a Degree in Engineering. He further contends that the petitioner was duly informed vide order dated 26.03.2010 (Annexure R-2) about he being not eligible for the said post, which order has not been challenged by the petitioner and, therefore, the prayer made in this petition cannot be accepted.

I have heard the counsel for the parties and have gone through the records of the case.

The basic facts are not in dispute. An objection raised by the counsel for respondent that the order conveyed to the petitioner informing him that he was not eligible for appointment to the post of Assistant Engineer i.e. 26.03.2010 (Annexure R-2) is not under challenge, would lose its relevance in the light of the documents placed on record and the decision of the Central Government dated 26.05.1977 holding the Diploma Course in Engineering in appropriate field with ten years of technical experience in that very appropriate field is equivalent to the Degree in Engineering which has been accepted by the State of Haryana for all intents and purposes in the light of its decision that all degrees and diplomas, which are recognized by the Government of India, will be deemed to be recognized by the Haryana Government (Annexure P-5). The petitioner without dispute passed his diploma course in Civil Engineering from Haryana Polytechnic, Nilokheri and diploma was issued to him by the Haryana State Board of Technical Education on 21.01.1986. It is also not in dispute that the petitioner had 18 years of experience in Civil Engineering, the relevant and appropriate field, on the date when he applied for the post of Assistant Engineer (Civil). In the light of the decision of the Central Government dated 26.05.1977, on the recommendation of the Board of Assessment for Educational Qualifications and recommendation of Defence Director (Tech.), the Government of India decided to recognize a Diploma in

Engineering in appropriate discipline plus total ten years of technical experience in the appropriate fields is recognized as equivalent to Degree in Engineering. It is also considered valid for the purposes of selection to Gazetted posts and services under the Central Government or State Government. A person thus, fulfilling this eligibility criteria which is an accepted qualification by the State of Haryana in the light of the decision of the Government of Haryana dated 18.03.1975 (Annexure P-5), which provides that degrees and diplomas etc. which are recognized by the Government of India will be deemed to be recognized by the Government of Haryana would be eligible for appointment to the post whose qualification is degree in engineering. In the absence of the stand of the respondent-State that the said decision of the Government of Haryana dated 18.03.1975 has neither been modified nor changed, the said qualification held by a candidate is in consonance with the requirement of the statutory Rules. Petitioner, in the light of this decision, can be treated to be a degree holder in Civil Engineering and, therefore, eligible for appointment to the post of Assistant Engineer (Civil). Further, in the light of the Division Bench judgment of this Court in the case of **Devinder Singh Malik** (supra) decided on 10.01.2008 (Annexure P-7), the stand of the State of Haryana cannot be accepted where it has specifically been held that a diploma holder with more than 10 years of technical experience will be treated eligible for appointment to the post of Assistant Engineer, in the light of the decision of the Central Government and the State

Government referred to above.

In view of the above, the present writ petition is allowed.

A direction is issued to the respondent to issue the appointment letter to the petitioner to the post of Assistant Engineer (Civil) within a period of one month from the date of receipt of certified copy of the order. Petitioner is also held entitled to all consequential benefits from the date, his batch mates were appointed to the post of Assistant Engineer on the basis of the recommendations made by the Haryana Staff Selection Commission to the post of Assistant Engineer.

January 23, 2012

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**