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

1) CWP-9395-2022 (O&M)
Date of decision: 14.10.2025

Pradip Kumar GuptaPetitioner

Versus

Haryana State Warehousing Corporation and another ...Respondents

2) CWP-15037-2022

Dilbagh SinghPetitioner

Versus

Haryana State Warehousing Corporation and others ...Respondents

3) CWP-15043-2022

Rajesh KumarPetitioner

Versus

Haryana State Warehousing Corporation and others ...Respondents

4) CWP-14060-2022

Sandeep Kumar SharmaPetitioner

Versus

State of Haryana and others ...Respondents



5) CWP-14420-2022
Dharmendra Kumar PandeyPetitioner

Versus

Haryana State Warehousing Corporation and another ...Respondents

6) CWP-14477-2022
Deepak Kumar DwivediPetitioner

Versus

Haryana State Warehousing Corporation and another ...Respondents

7) CWP-15450-2022
Manish ShuklaPetitioner

Versus

Haryana State Warehousing Corporation and another ...Respondents

8) CWP-9760-2022
Surinder SinghPetitioner

Versus

State of Haryana and others ...Respondents

9) CWP-16682-2022
Yatendra Veer TyagiPetitioner

Versus

Haryana State Warehousing Corporation and others ...Respondents



CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ajay Pal Singh, Advocate
for the petitioner(s) (CWP-16682-2022).

Mr. Mrigank Sharma, Advocate and
Mr. Anirudh Kaushal, Advocate
Dr. Puneet Kaur Sekhon, Advocate
for the petitioner(s) (in CWP-9760-2022).

Mr. Birender Singh Rana, Senior Advocate with
Mr. Neeraj Mann, Advocate
for the petitioner(s) (in CWP-14060-2022).

Mr. Amar Vivek Aggarwal, Advocate and
Mr. Karanjeet Singh, Advocate
for the petitioner(s)
(in CWP-9395-2022, CWP-14420-2022 &
CWP-14477-2022).

Mr. Vineet Jakhar, Advocate and
Mr. Mohit Thakur, Advocate
for the petitioner(s) (in CWP-15043-2022 &
CWP-15037-2022).

Mr. Rajesh Garg, Senior Advocate with
Ms. Neha Matharoo, Advocate,
Mr. Mandeep Singh, Advocate,
Mr. Padamkant Dwivedi, Advocate and
Ms. Mansi, Advocate
for respondent No.2 (in CWP-9395-2022).

Mr. Hitesh Pandit, Advocate and
Mr. Padamkant Dwivedi, Advocate
for the respondents-HSWC (in all cases).

HARPREET SINGH BRAR, J. (ORAL)

1. This common order shall dispose of aforementioned writ petitions, as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from **CWP-9395-2022**.
2. The present writ petition has been filed under Article 226/227 of



the Constitution of India for the issuance of a writ in the nature of *Certiorari* to quash the impugned termination order dated 20.04.2022 (Annexure P-14) and the impugned show cause notice dated 27.11.2020 (Annexure P-7). Further, a writ in the nature of *Mandamus* is sought, directing the respondents to forthwith reinstate the petitioner into service with all consequential benefits, including back wages, and to consider him for promotion to the post of District Manager with effect from 18.05.2016, when his juniors were promoted.

FACTUAL BACKGROUND

3. Briefly stated, the petitioner is an Ex-Serviceman who rendered 20 years of meritorious service to the nation as a Sergeant in the Indian Air Force, retiring in 2008. Respondent No. 1, the Haryana State Warehousing Corporation (hereinafter 'HSWC'), issued a Public Advertisement No. 3/2009 dated 29.08.2009 (Annexure P-1), inviting applications for various posts, including Manager Grade-I. One post was reserved for the Ex-Serviceman-General category. The essential qualification for the post of Manager Grade-I was stipulated as follows:

“3. Manager Grade-I: (GC-5, SC-2, BCA-1, BCB-1, ESMG-1)

Minimum Qualifications:

*Graduate in Agriculture or Commerce or Biology or Economics or Chemistry **with seven years experience in handling and preservation of agricultural produce in a Government Department, Public Sector Undertaking, Commercial organization of repute in a managerial or supervisory capacity** on the post carrying pay scale not below the pay scale of the post of Manager Grade-II in the Corporation. Preference will be given to persons holding Diploma or Degree in Marketing Management.*

Note: The pre-revised pay scale of the Manager Grade-II in the Corporation was Rs. 5450-150-6950-EB-150-8000.

Scale of Pay: Rs. 9300-34800+ Grade Pay: Rs. 4000/-



Age: 25-35 years”

(Emphasis supplied)

4. The Petitioner as well as one Surinder Singh (the petitioner in CWP no. 9760 of 2022) both applied for the single post of Manager Grade-I under the Ex-Serviceman category. At the time of submitting his application, the petitioner had detailed his experience as follows:

“In Indian Air Force as Airman-Technical Supervisor.

In GCS Computer Pvt. Ltd. as faculty management establishing, PTV-LCs in Haryana.

In Ultimate Automobiles Pvt. Ltd. as Work Manager CSI Improvement, workflow management, resolving customer complaints.

In GCS Computer Pvt. Ltd as Admn. Manager-Monitoring and Controlling of PTV-LCs in Haryana and Chd., complete Administration and RC-functioning.”

5. Further, the application form contained the following declaration which was submitted by the petitioner:

“13. Declaration:

I hereby declare that:

a) All statements made in this application are true, complete and correct to the best of my knowledge and belief. In the event of any information being found false or incorrect at any time later on ineligibility being detected before or after the interview/selection/ appointment my candidature may be cancelled and action can be taken against me.

b) I have read the provisions in the advertisement of the Corporation carefully and I hereby undertake to abide by them. I fulfil all the conditions of eligibility regarding age limits, educational qualifications, experience etc. prescribed in the advertisement and other relevant rules and instructions.

c) I have never been convicted by criminal court.”

6. A Screening Committee comprising six senior officials of the HSWC was constituted to scrutinize the 289 applications received. This Committee, after due diligence, shortlisted only 44 eligible candidates, including the Petitioner, and recommended them for interview. A high-powered



Executive/Interview Committee was constituted by the State Government, comprising five senior officials, including three IAS officers. This Committee interviewed the shortlisted candidates. However, against one post advertised for the category of Ex-Serviceman, both the petitioner-Pardip Kumar Gupta as well as Surinder Singh were appointed as Manager Grade-I by the then MD vide Appointment Letters dated 16.02.2010 (Annexure P-2) and 11.02.2010 (Annexure R-8).

7. The Petitioner successfully completed a two-year probation period and his services were duly confirmed. He continued to serve the Respondent-Corporation for over 12 years. In 2016, an RTI activist Sh Ravinder Kumar filed a complaint before the Police Authorities regarding illegal appointments made in HSWC by the then MD (Annexure P-3). The complainant argued that the petitioner's appointment was secured by paying a bribe to the then MD. The Petitioner submitted a detailed reply denying all allegations. Consequently, the Petitioner's promotion to the post of District Manager, which became due in 2016, was kept in abeyance while his juniors were promoted (Annexure P-4).

8. The State Government, vide letter dated 25.07.2016 (Annexure R-9), directed the Corporation to conduct a fact-finding inquiry into the complaint. A fact-finding report was submitted on 21.08.2020 (Annexure R-10) which noted that the merit list was signed by all EC members and that malafide intention could not be established. It further stated that the petitioner was a "victim of misdeeds/ procedural lapses" of the administrative branch. On 27.11.2020, the Petitioner was served with a Show Cause Notice (Annexure P-7) alleging that he did not possess the requisite seven years of experience in "handling and preservation of agricultural produce" as stipulated in the 2009



advertisement. The Petitioner submitted a detailed reply (Annexure P-8) on 09.12.2020, contesting the allegations and asserting that his extensive experience in the Indian Air Force and elsewhere was duly considered and found sufficient by the high-powered selection committee.

9. Thereafter, a complaint bearing no 430 of 2021 was filed before the Ld. Lokayukta Haryana by Sh Ravinder Kumar for conducting an inquiry regarding the recruitments in question. Vide order dated 24.01.2022 (Annexure R-12), the Ld. Lokayukta, Haryana forwarded the complaint to the Chief Secretary to Govt. of Haryana to get the complaint inquired through some senior officer. The Chief Secretary vide letter dated 03.03.2022 (Annexure R-13) requested the Additional Chief Secretary, Agriculture & Farmers Welfare Department to enquire into the matter. The Additional Chief Secretary vide letter dated 07.03.2022 (Annexure R-14) further called upon the MD to enquire into the matter and send the factual report to the Government immediately. In April 2022, Respondent No. 2, joined as the new Managing Director of HSWC.

10. Consequently, a notice for personal hearing was issued to the Petitioner on 18.04.2022 (Annexure P-12), scheduling the hearing for 20.04.2022. Despite the Petitioner's request for a postponement to prepare his defense, Respondent No. 2 conducted the hearing on 20.04.2022 and, on the very same day, passed the impugned Termination Order (Annexure P-14), summarily terminating the Petitioner's services after 12 years on the sole ground of not possessing the requisite experience at the time of appointment in 2010. Aggrieved by this termination, which he contends is a malafide act to settle scores between two senior IAS officers, the Petitioner has invoked the extraordinary writ jurisdiction of this Court under Article 226 of the



Constitution of India.

11. It was further brought to the notice of this Court that, pursuant to the Government letter dated 22.04.2022 (Annexure R-15), the respondent-Corporation conducted an inquiry not only concerning the post of Manager Grade-I but also with respect to other posts that had been directly recruited by the then Managing Director of the Corporation during 2009–10. In compliance with the said directions, a fact-finding inquiry was carried out by Committees comprising senior officers of the Corporation, constituted vide order dated 22.04.2022 (Annexure R-16). The Committees submitted their reports on 26.04.2022 (Annexure R-17 colly.), wherein it was found that 11 additional officials had been wrongfully appointed. Consequently, show-cause notices were issued to them. Furthermore, based on the findings of the Committee, a complaint dated 29.04.2022 (Annexure R-18) was lodged against the erring officers/officials responsible for the illegal appointments, and the same was forwarded to the Police for registration of an FIR in accordance with law.

CONTENTIONS

12. Learned counsel for the petitioner(s) *inter alia* contends that the impugned termination Order is ex-facie illegal and void ab-initio as it has been passed without conducting any departmental inquiry as mandatorily required under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016 (hereinafter '2016 Rules') for imposing a major penalty. A confirmed employee cannot be terminated summarily merely by issuing a show cause notice. The entire action is in gross violation of the salutary principles of *Audi Alteram Partem*.



13. It is submitted that the Petitioner(s) never concealed any material fact nor made any misrepresentation. His entire service record and experience details were scrutinized first by the Screening Committee and then by the high-powered Executive Committee comprising three IAS officers. If his experience was deemed insufficient, he would not have been selected. The selection process was bona fide and the Petitioner was appointed after due application of mind. Learned counsel argued that there is no dispute with respect to the petitioner's lack of essential qualification; instead, the sole controversy pertains to the possession of the requisite experience.

14. It is further contended that the entire action is vitiated by malafides and is a classic case of a scapegoat being made in a personal battle between two senior IAS officers. Respondent No. 2 joined in April 2022 and with tearing hurry terminated the Petitioner to settle scores with his predecessor under whom the Petitioner was appointed. The fact that both officers have lodged cross-FIRs against each other affirms the personal tussle. The learned counsel emphasized that a successor in office cannot, for personal reasons, overturn the settled decisions of his predecessor made over a decade ago, especially when it ruins the career of a hapless employee.

15. Learned counsel contended that the Petitioner, being an Ex-Serviceman, belongs to a distinct and reserved category. The experience criteria for such candidates cannot be equated strictly with general category candidates. The HSWC (Officers and Staff) Regulations, 1994 (hereinafter 1994 Regulations), specifically provide for relaxation. Reliance is specifically placed on Regulation 27 and Regulation 30. The Hon'ble Supreme Court in *State of Orissa v. Mohd. Yunus 1994 SCC (L&S) 795*, has held that fixation of general



standards for Ex-Servicemen would be a handicap and some relaxation is necessary.

16. The learned counsel heavily relied on the judgment of the Hon'ble Supreme Court in *Santosh Yadav (Smt.) v. State of Haryana and Others 1996(9) SCC 320*, wherein the Court deprecated the termination of a confirmed employee after a decade of service on the ground of a qualification defect that was known at the time of initial appointment. Similarly, a Division Bench of this Hon'ble Court in *Bidhi Chand v. Uttar Haryana Bijli Vitran Nigam, Panchkula and Others 2002(4) SCT 1028* held that it would be wholly iniquitous to dispense with the services of an incumbent after allowing him to work for about nine years.

17. It was submitted that the internal Fact-Finding Report dated 21.08.2020 (Annexure R-10) itself concluded that the Petitioner was a "victim of misdeeds/procedural lapses" of the Administrative Branch of the HSWC and that he was "innocent." The Report attributed the confusion to administrative lapses, not to any fault of the Petitioner. The Respondents' action in punishing the Petitioner for the Corporation's own errors is perverse.

18. *Per Contra*, learned counsel for respondents submits that the Petitioner's appointment was void from the very beginning as he did not possess the essential experience of "seven years in handling and preservation of agricultural produce" as stipulated in the advertisement. An appointment secured without fulfilling the essential qualification is a nullity and cannot be protected. Reliance is placed on the judgment of the Hon'ble Supreme Court in *Regional Manager, Central Bank of India v. Madhulika Guruprasad Dahir & Ors., AIR 2008 SC 3266*, which held that an appointment conceived in deceit



cannot be saved by equitable considerations.

19. Furthermore, the Petitioner, in his application form, gave a declaration that all information was true and that his candidature could be cancelled if ineligibility was detected at any stage. It was argued that the petitioner now cannot turn away from the declaration and undertaking submitted by him. Submitting a false declaration for getting a government job is an unpardonable act and hence in the instant case, the petitioner cannot run away from the fact that he misrepresented his experience in the application form. Moreover, the advertisement itself contained a specific clause under “Special Instructions” stating that if a candidate's ineligibility is detected “at any time after appointment,” his appointment will be terminated. The Respondents were thus fully within their rights to invoke this clause and terminate the Petitioner's services, irrespective of the lapse of time.

20. It was contended that the power of relaxation under Regulation 30 of the 1994 Regulations lies with the Board of Directors and must be exercised by a reasoned order in writing. There is no record of any such relaxation having been granted in favour of the Petitioner. The mere fact that he was selected does not imply deemed relaxation. The selection itself was vitiated by the then Managing Director, who, in a fraudulent manner, appointed two persons (the Petitioner and Sh. Surinder Singh) against a single reserved post.

21. It was contended that the Petitioner was issued a show cause notice in November 2020, to which he filed a detailed reply. He was also granted a personal hearing in April 2022 and was allowed to inspect records. Therefore, there was no violation of the principles of natural justice. Further, the action was not malafide but was based on a series of factual inquiries,



including a Fact-Finding Report and directions from the Haryana Lokayukta. A subsequent letter from the former Chairman of the Interview Committee (Annexure R-19) confirmed that the Executive Committee was “taken for a ride” by the then Managing Director. The current management is only rectifying a past fraud.

22. The learned counsel relied upon *Union of India and Others v. Anand Kumar Pandey and Others, 1994 (6) SCC 663*, and *Hanuman Prasad and Others v. Union of India and Another, 1996 (10) SCC 742*, to contend that if a selection process is vitiated by malpractices, the courts should not grant relief on sympathetic grounds, and the entire selection can be nullified in public interest.

OBSERVATION & ANALYSIS

23. I have heard the learned counsel for the parties and have perused the record with their able assistance. This Court is of the considered opinion that the petitioner in the present case has neither acted fraudulently nor misrepresented his qualifications and experience at the time of submitting the application form or at any stage thereafter. The petitioner furnished a complete and transparent account of his experience and no material fact was concealed. Consequently, the respondents’ contention that the petitioner submitted a false declaration is untenable. The appointment of the petitioner was the culmination of a rigorous and multi-tiered selection process wherein their candidature along with the detailed service record and professional experience, was subjected to a thorough scrutiny first by the Screening Committee and thereafter by a high-powered Executive Committee.



24. The findings of the first Fact-Finding Inquiry, which submitted its report on 21.08.2020 (Annexure R-10) are particularly noteworthy in this regard. The report unequivocally records that the allegation attributed to then MD, HSWC of having entered into a corrupt arrangement with the petitioner to secure his appointment as Manager Grade-I in exchange for ₹10 lakhs, is unsustainable, as no evidence or supporting material has been produced by the complainant. It is further noted that the appointment of the petitioner and Sh. Surinder Singh against a single post reserved for the ESM-G category resulted from lapses on the part of the Administration Branch. The report observes that the petitioner became a victim of such procedural irregularities and is innocent. The relevant extracts of the report are reproduced below:

*“5. As regards category against which Shri Pardip Kumar Gupta is recruited, the Administration branch has provided a copy of proceedings of the selection committee wherein no reservation category is mentioned. There is no mention of category on appointment letter of Sh Surinder Singh. The issue left unsettled in the office record is the category against Sh. Surinder Singh and Sh. Pardip Kumar Gupta were appointed as both belonging to ESMG category and applied for one post reserved for ESMG category. **The procedural lapse made at this stage by the Administration branch cannot be ignored. Since there was only one post reserved for ESMG category and Sh Surinder Singh was presumably recruited against this category (having scored 22.7 points in merit against 21.3 by Sh. Pradip Gupta). Therefore, one seat reserved for ESMG category is filled by Sh. Surinder Singh.***

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*On the basis of record, it is established that the clause of reserved category i.e. ESM-G is not mentioned in the list recommending the names of candidates in order of merit for appointment to the post of Manager Grade-I. The reservation category has not been mentioned in case of Shri Het Ram (belonging to BCB category) but in case of Sh. Ajay Kumar, the category has been clearly mentioned in the selection list as BCA. **This list has been signed by all the EC members who hold prestigious and responsible posts in various State Govt departments /***



Central Govt. PSU and therefore male fide intention behind this cannot be established.

However, Administration branch failed miserably to bring this fact to the notice of competent authority and get the category rectified by the competent authority. The current situation is the result of lapse on the part of Administration Branch and disciplinary action must be taken responsible dealing officials.

*Sh. Surinder Singh had applied against the category of ESMG scored 22.7 and was placed at Sr. No. 2 in merit list and was posted as Manager Grade-1 at State Warehouse Uklana, Hisar vide office orders dated 11/02/2010. Mr. Pardeep Kumar Gupta was posted as Manager Grade-1 at State warehouse. Fatehabad on 16/02/2010. **However, the category is nowhere mentioned in the appointment letter of Sh, Surinder Singh sind Sh Pradip Kumar Gupta. Here it was again an opportunity with Administration branch to get clarification about the category under which Sh. Surinder Singh. and Sh. Pradip Kumar Gupta have been appointed but the Administration branch again failed miserably to perform their duties leading to the current situation. Had it been done at that time, this situation would not have arisen. The dealing officials are responsible for not bringing this fact to the notice of competent authority and disciplinary action must be initiated against them.***

Thus Sh. Pradip Kumar has become victim of misdeeds/procedural lapses as stated above and is innocent.

*...MD, HBWC was well aware of the requisite certificate for various vacancies to be filled up by eligible candidates. This fact is verifiable from his own action on record whereby he ordered the office to produce experience certificate in respect of Mr Rajesh Kumar who had been selected through HSSC for the post of Manager Grade-III. He duty got verified/ discovered the prescribed experience for the said incumbent falling which he was denied the appointment as Manager Grade-III. **A Managing Director is the head of organization controlling various division dealing in various subject matters. He is assisted by supporting staff to examine the cases as per rules & regulations and bring right picture before competent authority for decision/action. In case any discrepancy/lapse at any stage, it was duty of dealing officials of Administration branch to bring the same to notice of MD which is not so as per record. It is for the concerned branch to ensure that there is no procedural lapse in dealing the matter. It was duty of Administration branch to seek verification of documents, If required, which never took place. The Administration branch again failed to***



perform its duties leading to current situation. This fact was neither brought to the notice of MD.” (Emphasis supplied)

25. It must be pointed out that even the subsequent Fact-Finding Inquiry Report dated 26.04.2022 (Annexure R-17) does not record any finding that the petitioner had acted fraudulently or with malice. Moreover, the petitioner, having been appointed in 2010, has rendered more than fifteen years of continuous and satisfactory service to the Respondent-Corporation under the protection of this Court’s interim orders. As discussed hereinabove, since there is no evidence of fraud or misrepresentation on the part of the petitioner, he is entitled to the protection guaranteed under Article 311 of the Constitution of India and his services cannot be terminated without subjecting him to an appropriate disciplinary proceedings as per relevant service rules. A Two-Judge Bench of the Hon’ble Supreme Court in *Kamal Nayan Mishra v. State of M.P. 2010(1) SCT 624* speaking through Justice R. V. Raveendran, has observed as follows:

*“11. ...It is contended that as the attestation form stated that an employee could be terminated without notice, if he furnishes false information, the employee is estopped from objecting to termination without notice. **The said contention may merit acceptance in the case of a probationer, but not in the case of a confirmed Government servant. No term in the attestation form, nor any consent given by a Government servant, can take away the constitutional safeguard provided to a Government servant under Article 311 of the Constitution...**”* (Emphasis supplied)

26. As per Regulation 15 of the 1994 Regulations, matters concerning conduct, discipline, and penalties applicable to employees are governed by the Government Employees (Conduct) Rules, 1966 and the Haryana Civil Services (Punishment and Appeal) Rules, 2016 (hereinafter, “2016 Rules”).



Consequently, the major penalty of termination can be imposed only after strict compliance with the procedural safeguards prescribed under Rule 7 of the 2016 Rules, and not merely on the basis of a show-cause notice. In the present case, no charge-sheet has been issued to the petitioner, nor has any inquiry officer been appointed. Accordingly, the petitioner's termination order stands vitiated for non-compliance with the mandatory procedure and is liable to be set aside on this ground.

27. Moreover, it is settled law that when there is no misrepresentation or concealment by a candidate at the time of appointment, and the Selection Committee, upon due consideration, found him suitable for the post, it would be unjust and unduly harsh to penalize such an employee after he has rendered long years of service merely on the ground that he was lacking in certain prescribed qualifications. The Division Bench of this Court in *Varinder Hans v. Union of India 2019(4) SCT 513* relied on the judgements of the Hon'ble Supreme Court and observed as follows:

"14. From the above, it is clear that there is no allegation of any misrepresentation on the part of the petitioner. The documents submitted by him were duly scrutinized. He was found eligible. He appeared for the interview. His skill at caning was put to test. He secured the maximum marks. The expert who evaluated the skill of the candidates did not find the petitioner lacking in any manner. He was recommended for appointment and joined on 5.2.2014. He was terminated on 1.10.2015 after he had worked for about one year and eight months. There is no observation that he was lacking in skill or that his work at the PGI was not upto the standards.

15. Hon'ble Supreme Court in Dr. M.S. Mudhol v. Shri S.D. Halegkar 1993 (3) SCC 591 held that where there was no misrepresentation by a candidate, and despite his not possessing the qualifications he had been appointed and had worked for considerable time it would be iniquitous to disturb him. It was observed as under:



“6. Since we find that it was the default on the part of the 2nd respondent, Director of Education in illegally approving the appointment of the first respondent in 1981 although he did not have the requisite academic qualifications as a result of which the 1st respondent has continued to hold the said post for the last 12 years now, it would be inadvisable to disturb him from the said post at this late stage particularly when he was not at fault when his selection was made. There is nothing on record to show that he had at that time projected his qualifications other than what he possessed. If, therefore, in spite of placing all his cards before the selection committee, the selection committee for some reason or the other had thought it fit to choose him for the post and the 2nd respondent had chosen to acquiesce in the appointment, it would be inequitable to make him suffer for the same now. Illegality, if any, was committed by the selection committee and the 2nd respondent. They are alone to be blamed for the same.”

16. The Hon'ble Supreme Court in Bhagwati Prasad and ors. v. Delhi State Mineral Development Corporation 1990(1) SCC 361 held that even where the candidates did not possess the essential qualifications but they have worked and gained sufficient experience it would be harsh to deny them confirmation on the ground that they lacked essential qualifications. Hon'ble Court observed as under:

"6. The main controversy centers round the question whether some petitioners are possessed of the requisite qualifications to hold the posts so as to entitle them to be confirmed in the respective posts held by them. The indisputable facts are that the petitioners were appointed between the period 1983 and 1986 and ever since, they have been working and have gained sufficient experience in the actual discharge of duties attached to the posts held by them. Practical experience would always aid the person to effectively discharge the duties and is a sure guide to assess the suitability. The initial minimum educational qualification prescribed for the different posts is undoubtedly a factor to be reckoned with, but it is so at the time of the initial entry into the service. Once the appointments were made as daily rated workers and they were allowed to work for a considerable length of time, it would be hard and harsh to deny them the confirmation in the respective posts on the ground that they lack the prescribed educational qualifications..." (Emphasis supplied)



28. Reliance can also be placed on the judgements of Division Bench of this Court in *Sarabjeet Kaur Dhaliwal v. Punjab Agricultural University 2003 (4) S.C.T 132* and *Bidhi Chand v. The Uttar Haryana Bijli Vitran Nigam 2002(4) SCT 1028*.

29. Furthermore, this Court is of the considered view that the reliance placed by learned counsel for the respondents on the judgments in *Hanuman Prasad and Others v. Union of India and Another, (1996) 10 SCC 742*; *Union of India and Others v. Anand Kumar Pandey and Others, (1994) 6 SCC 663*; and *Regional Manager, Central Bank of India v. Madhulika Guruprasad Dahir and Others, AIR 2008 SC 3266*, is wholly misplaced. In all these cases, the candidates had either acted fraudulently, adopted unfair means, or secured their appointments through misrepresentation; circumstances that are entirely absent in the present matter.

30. This Court is also conscious of the fact that the petitioner is an Ex-Serviceman who has rendered 20 years of meritorious service to the nation as a Sergeant in the Indian Air Force. A single judge bench of the Hon'ble Apex Court in *State of Orissa v. Mohd. Yunus 1994 SCC (L&S) 795* speaking through Justice K. Ramrswamy has observed as follows:

“3. ...The fixation of the general standard marks prescribed for the general candidates would undoubtedly be a handicap to the ex-service personnel who are made to compete with youngsters after several years of service put in the defence service. The State Government and the Public Service Commission are directed to consider the desirability to fix a lesser standard than that of the general candidates as ex- servicemen have served the nation in its defence and in the process they may not come on a par with the general candidates. Therefore, some relaxation in their behalf would be necessary to meet the exigencies of coping up with



the reservation given to them. Otherwise, reservation would be illusory...”

31. The grant of relaxation with respect to qualifications and age for candidates applying to posts under the Respondent-Corporation is contemplated within the framework of the 1994 Regulations. Regulations 6, 27, and 30 are reproduced below:

*“6. **Qualifications and age.** - no person shall be appointed to any post in the service, unless he is in possession of qualifications and experience and has attained age specified in column No. 4 and 3 respectively of Appendix B to these regulations in case of direct recruitment and those specified in column 5 of the aforesaid Appendix in the cases of appointment by promotions;*

Provided that in case of appointment by direct recruitment, if candidates with requisite qualifications and experience are not available, the appointing authority may relax qualifications and experience.

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*27. **Reservation.** - Nothing contained in these regulations shall affect reservations and other concessions required to be provided for scheduled castes, backward classes, ex- servicemen, physically handicapped persons or any other class or category of persons in accordance with the orders issued by the Government in this regard, from time to time: Provided that the total percentage of reservation so made shall not exceed 50% at any time.*

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*30. **Power of relaxation.** - Where the Board of Directors is of the opinion that it is necessary or expedient to do so, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these regulations with respect to any class or category of persons.”*

(Emphasis supplied)

32. Although there is nothing on record to indicate that any order of relaxation was passed by the Board of Directors under Regulation 30, the Managing Director of the Respondent-Corporation, who is admittedly the appointing authority for the post of Manager Grade-I as per Appendix ‘C’ of the



1994 Regulations, was empowered under the proviso to Regulation 6 to relax the prescribed qualifications and experience in cases of direct recruitment where suitable candidates possessing the requisite qualifications and experience were not available.

CONCLUSION

33. In view of the foregoing discussion, the present petition(s) are allowed. The impugned termination order dated 20.04.2022 (Annexure P-14) and the show-cause notice dated 27.11.2020 (Annexure P-7) are hereby quashed and set aside. The petitioner would be entitled to all consequential benefits.

34. Pending miscellaneous applications, if any, shall also stand disposed of.

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

(HARPREET SINGH BRAR)
JUDGE

14.10.2025

Neha

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