

SUBORDINATE SERVICES SELECTION BOARD

v.

BIR SINGH AND ANR./RAM NIWAS AND ORS.

MARCH 27, 1995

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Service Law—Appointments—Clerk in 'A' Class Offices—Qualifications—Reserving post for ex-servicemen—Appointment to unfilled post reserved for ex-servicemen—Dependent of ex-servicemen—Eligible for consideration—Subject to candidates possessing qualifications prescribed for post—Dependent of ex-servicemen cannot be considered to be an ex-servicemen.

The Government while reserving the post for ex-servicemen prescribed qualifications for the posts in Class 'A' offices as mere Matriculation. The qualification of First Division in Secondary or Second Division in Intermediate was necessary for general candidates. In the year 1979 while giving benefit of reservation to the children of Ex-Servicemen, it was stated that due to non-availability of suitable candidates for the reserved quota, the recruitment of Ex-Servicemen to the Civil posts was not being made to the desired extent. Therefore, it had been decided that the dependent sons and daughters of Ex-Servicemen, who fulfill all the conditions of qualifications prescribed for the posts should be considered on merit for the posts reserved for Ex-Servicemen to the extent of non-availability of suitable Ex-Servicemen.

The respondents, dependents of Ex-servicemen claimed that since the advertisement dated 7.9.1991, did not prescribe any distinction between 'A' class and 'B' class offices and had only mentioned about Matriculation as the respondents had secured Matriculation, they were eligible on par with the ex-servicemen for appointment in 'A' class posts.

The question raised for consideration was whether the respondents were eligible to be considered for appointment as Clerks in 'A' class offices on the admitted position that they were not matriculates with first division. The High Court found them to be eligible. Hence these appeals.

Allowing the appeals, this Court

A HELD: The advertisement dated 7.9.91 dealt with Clerks in general; it did not say about Clerk in 'A' class offices. In case ex-servicemen were not available and there existed vacancy reserved for ex-servicemen, the dependent i.e. son or daughter of ex-servicemen, was eligible for consideration to appointment but subject to the candidates possessing qualifications prescribed for the posts. One of the conditions was that in case of the dependent, he shall also be required to be a Matriculation with First Division or Intermediate with Second Division. Such candidate alone was eligible for appointment in 'A' class office. The benefit of mere Matriculation was available to the ex-servicemen only. Dependent's son or daughter cannot be considered to be an ex-servicemen. The benefit of giving reservation to the dependents is only to see that the posts reserved for ex-servicemen may not be allowed to be lapsed for non-availability of ex-servicemen. The respondents were not entitled for appointment in 'A' class offices since they did not have First Division in Matriculation nor were they ex-servicemen. [1149-D-F]

D CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 4474-75 of 1995.

From the Judgment and Order dated 14.7.93 of the Punjab & Haryana High Court in C.W.P. 11553 of 1993.

E Pradeep Gupta and K.K. Mohan for the Appellant.

B.S. Chahar and Ashok Mathur for the Respondents.

The following Order of the Court was delivered :

F Leave granted.

G The only question is whether the respondents are eligible to be considered for appointment as Clerks in 'A' Class offices on the admitted position that they are not matriculates with first division. The High Court in W.P. No. 11553/93 by judgment dated 14.7.94 found them to be eligible. Admittedly, the respondents are dependents of ex-servicemen. The Government while reserving the posts for ex-servicemen, have prescribed qualifications for the posts in Class 'A' offices, as under :-

H "Qualifications of the posts of Clerks, Steno-typists and Stenographers in all 'A' class offices.

<i>Name of the Post</i>	<i>Qualifications</i>	A
Clerks	1. Matric Ist. Div./Higher Secondary IInd Division/Intermediate IInd Div./Graduates or equivalent (For Ex-servicemen Matric only)	
	2. Knowledge of Hindi upto Matric standard.	B
	3. Hindi/English typing at a speed of 25/30 words per minute respectively.	
Steno-typist	1. Matric 1st Div. Higher Secondary Second Division/Graduate or equivalent (For Ex-Servicemen Matric only)	C
	2. Knowledge of Hindi upto Matric Standard.	
	3. English shorthand at 80 w.p.m. and transcription thereof at 11 w.p.m.	D
	4. Hindi shorthand at 64 w.p.m. and transcription thereof at 11 w.p.m.	
Stenographer	1. Matric Ist Div./Hr. Sec. IInd Div./Intermediate IInd Div./Graduate or equivalent (For Ex-servicemen Matric only)	E
	2. Knowledge of Hindi upto Matric standard.	
	3. English shorthand at 100 wpm and transcription thereof at 20 wpm.	F
	4. Hindi shorthand at 80 wpm and transcription thereof at 15 wpm."	

For class 'B' offices, it was prescribed thus:

"Qualification for the post of Clerks, Stenotypists and Stenographer in all offices other than 'A' class offices :

<i>Name of the Post</i>	<i>Qualifications</i>	G
Clerks	1. Matric/Higher Secondary or equivalent.	H=

- A
2. Knowledge of Hindi upto Matric standard.
 3. Hindi or English typing at a speed of 25/30 wpm respectively.
- B
- Steno-typist
1. Matric/Hr. Secondary or equivalent.
 2. Knowledge of Hindi upto Matric Standard.
 3. Hindi shorthand at 64 w.p.m. and transcription thereof at 11 w.p.m.
- C
- OR
- English shorthand at 80 w.p.m. and transcription thereof at 15 w.p.m.
- D
- Stenographer
1. Hindi : Hr. Secondary or equivalent.
 2. Knowledge of Hindi upto Matric standard.
 3. Hindi shorthand at 80 wpm and transcription thereof at 15 wpm.
- E
- OR
- English shorthand at 100 wpm and transcription thereof at 20 wpm.

F In the year 1979 while giving benefit of reservation to the children of Ex-Servicemen, by proceedings dated March 21, 1979, it was stated thus:

G "It has been observed that due to non-availability of suitable candidates for the reserved quota, the recruitment of Ex-servicemen to the civil posts is not being made to the desired extent. In view of this, it has been decided that the dependent sons and daughters of Ex-servicemen, *who fulfill all the conditions of qualifications, age etc. prescribed for various posts, should also be considered on merits for the posts reserved for the Ex-servicemen to the extent of non-availability of suitable Ex-servicemen.* This entitlement would be available to one dependent child only." (Emphasis supplied)

H

A
B
A reading of these conditions would clearly indicate that if the ex-servicemen are considered for appointment in 'A' Class offices, they may be mere Matriculate only. The qualification of First Division in Secondary or Second Division in Intermediate is necessary for general candidates. With regard to the appointments in 'B' Class offices this condition was not incorporated. For children of ex-servicemen, they are required to fulfill all the conditions of qualifications prescribed for the posts and be considered on merits for appointment to the unfilled posts reserved for ex-servicemen.

C
D
E
F
Respondents contend that since the advertisement, Annexure R-1, dated 7.9.91, does not prescribe any distinction between 'A' class and 'B' class offices and had only mentioned about Matriculation as the respondents had secured Matriculation, they are eligible on par with the ex-servicemen for appointment in 'A' class posts. We find no force as the advertisement dealt with Clerks in general; it did not say about Clerk in 'A' class office. It has already been seen that in case ex-serviceman is not available and there exists vacancy reserved for ex-serviceman, the dependent i.e. son or daughter of ex-exservicemen, is eligible for consideration to appointment but subject to the candidates possessing qualifications prescribed for the posts. One of the conditions is that in case of the dependent, he shall also be required to be a Matriculation with First Division or Intermediate with Second Division. Such candidate alone is eligible for appointment in 'A' class office. The benefit of mere Matriculation is available to the ex-servicemen only. Dependent's son or daughter cannot be considered to be an Ex-serviceman. The benefit of giving reservation to the dependents is only to see that the posts reserved for ex-servicemen may not be allowed to be lapsed for non-availability of ex-servicemen.

Considered from this perspective, we are of the view that the respondents are not entitled for appointment in 'A' class offices since they do not have First Division in Matriculation nor that they are ex-servicemen.

G
The appeals are accordingly allowed but in the circumstances without costs. The writ petitions filed in the High Court stand dismissed.

R.A.

Appeals allowed.