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and ISO:45001
Certified Company

HARYANA POWER GENERATION CORPORATION LTD

Regd. Office: C-7, Urja Bhawan, Sector-6, Panchkula
Corporate Identity Number : U45207HR1997SGC033517
Website: www.hpgcl.org.in
E-mail id: xen.rect@hpgcl.org.in

From

Chief Engineer/Admn.,
HPGCL, Panchkula.

To

1. All Chief Engineers in HPGCL.
2. All Financial Advisors & CAO in HPGCL.
3. SE/FTPS, HPGCL, Faridabad.

Memo No. 376 /Ch. 93/HPGC/ENG/HPU/C-2025/

Dated: 21 /08/2025.

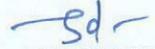
Subject: - Important judgement passed by Hon'ble courts.

Kindly refer to the subject noted above.

In this context, enclosed please find herewith a copy of judgements (**list overleaf as Annexure-I**) passed by Hon'ble High Court, Chandigarh in the subject cited cases, received from the office of LR/HPU, Panchkula for praying dismissal of similar court cases by placing reliance on the ibid judgements.

This issues with the approval of Chief Engineer/Admn., HPGCL.

DA/As above



XEN/ LNO,
For Chief Engineer/Admn.,
HPGCL, Panchkula

Endst. No. 376 /Ch-93 /HPGC/ENG/HPU/C-2025/

Dated: 21 /08/2025

A copy of the same is forwarded to the following for information and further necessary action:-

Xen/IT, HPGCL, Panchkula with a request to upload the along-with office memos (**copies enclosed**) on the official website of HPGCL, please.

DA/As above.



XEN/ LNO,
For Chief Engineer/Admn.,
HPGCL, Panchkula

CC:-

PS to Chief Engineer/Admn, HPGCL, Panchkula.

Annexure -I

Sr. No.	Subject	Judgements dated	Memo No.
1.	CWP No. 14146 of 2025 titled as Pawan Vs SOH & Ors.	16.05.2025	No. 15/LB-2(98) dated 10.07.2025
2.	CWP No. 19660 of 2025 titled as Sanjay Kumar Vs SOH & Ors.	16.07.2025	No. 7/LB-2(123) dated 07.08.2025
3.	CWP No. 2793 of 2022 titled as Gyanender Rawal Vs SOH & Ors.	08.07.2025	No. 101/LB-2(20) dated 07.08.2025



HARYANA VIDYUT PRASARAN NIGAM LIMITED

Regd. Office : Shakti Bhawan, Plot No. C-4, Sector-6, Panchkula 134109

Corporate Identity Number : U40101HR1997SGC033683

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Correspondence E-mail: lr@hvprn.org.in, Legalretainer@hvprn.org.in

Telephone No. - 0172-2560769, 0172-2571841

To

1. The CE/Admn. & IT, HVPNL, Panchkula.
2. The CE/TS, HVPNL, Panchkula.
3. The CE/TS, HVPNL, Hisar.
4. The CE/TS, HVPNL, Gurugram.
5. The CE/Op. DHBVN, Hisar.
6. The CE/Op. DHBVN, Delhi.
7. The CE/Admn., DHBVN, Hisar.
8. The CE/Op., UHBVN, Panchkula.
9. The CE/Op. UHBVN, Rohtak.
10. The CE/Admn., UHBVN, Panchkula.
11. The CE/Admn., HPGCL, Panchkula.

Diary No. 1219 25/07/25

AEE-G

AEE-R

AEE/AE-NG

Supdt.

All Officers

Memo No: 15/LB-2(98)

Dated: 10.07.2025

Subject: CWP No. 14146 of 2025 titled as Pawan V/s State of Haryana & Ors.

The aforesaid case came up for hearing on 16.05.2025 and the Hon'ble High Court vide judgment dated 16.05.2025 allowed the same on the premise that no Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident but a condition of service. Operative part of Judgment dated 16.05.2025 is reproduced here under: -

"2. The petitioner claims that he never requested respondent to transfer him, however, he was transferred vide order dated 23.04.2025 (Annexure P-1) on the ground of 'individual interest'. He preferred Civil Writ Petition No.12246 of 2025 before this Court which was disposed of vide order dated 06.05.2025 as during the pendency of petition, the respondent vide order dated 05.05.2025 substituted ground of transfer from 'individual interest' to 'administrative ground'. The distance between both places is 140 kms.

3. Mr. I.P.S. Kohli, Advocate for the petitioner submits that employees who were posted at Jhajjar Circle much prior to petitioner are still working but petitioner has been transferred at a distance of 140 kms. It would cause unnecessary mental, financial and physical strain to the petitioner.

4. It is settled proposition of law that scope of interference in transfer matters is very limited. It is the employer or higher authorities who have to decide posting of employees. The Court cannot determine place of posting of employees. The authorities, in the interest of administration as well public interest has to transfer its employees. Transfer is an integral part of service. There is no evidence disclosing that the petitioner has been transferred with mala fide intention or there is violation of policy.

5. The Supreme Court in National Hydroelectric Power Corporation Limited v. Shri Bhagwan and another, 2001 8 SCC 574, has held that no Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals cannot interfere with such orders, as though they

Memo No. 4990

Dated. 24/07/25

DS/Estt.

DS/General

US/NGE

US/Recd

DS/T&M

XEN/HR&TRG

XEN/LNO

CE/Admin.

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were the appellate authorities substituting their own decision for that of the management.

6. Considering the facts of the present case and judgment of Supreme Court in National Hydroelectric Power Corporation Limited (supra), this Court does not find any reason to interfere with order dated 16.04.2025 (Annexure P-6).

7. In the wake of above discussion and findings, the present petition deserves to be dismissed and accordingly dismissed."

It is important judgment on the issue that no Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals cannot interfere with such orders. It is therefore, requested to circulate the judgment amongst the subordinate offices under your control for disposal of similarly situated case by placing reliance on the aforesaid judgment. A copy of judgment dated 16.05.2025 is enclosed herewith for ready reference.

DA/As above

Vishal Sharma
10/05/25

Assistant Law Officer,
For L.R. HPU, Panchkula

CC: -

1. The S.E./XEN/IT, UHBVN, HVPNL, HPGCL, DHBVN, Panchkula/Hisar are requested to upload the judgment dated 16.05.2025 on the website of their utility.
2. The SDO/OP S/Divn., UHBVN, Samalkha.
3. The SDO/OP S/Divn., UHBVN, Bahu, Jhajjar.
4. The Joint Secy./Legal, HVPNL, Panchkula.
5. The Under Secy./Legal, HVPNL, Panchkula.
6. Dy. District Attorney-I, HVPNL, Panchkula.
7. Dy. District Attorney-II, HVPNL, Panchkula.
8. Aman Dhiman, Legal Consultant, UHBVN, Panchkula.
9. Legal Consultant, HVPNL, Panchkula.
10. Legal Consultant, HPGCL, Panchkula.
11. Law Officer, HVPNL, Panchkula.
12. Law Officer, DHBVNL, Panchkula.
13. Law Officer, UHBVNL, Panchkula.
14. Legal Officer, UHBVN, Panchkula.
15. ALO-1 UHBVN, Panchkula.
16. ALO-2, UHBVN, Panchkula.
17. ALO-3, UHBVN, Panchkula.
18. ALO, DHBVN, Panchkula.
19. ALO, HVPNL, Panchkula.



CWP-14146-2025

2025:PHHC:065466

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14146-2025

Date of Decision: 16.05.2025

PAWAN

..... Petitioner

Versus

STATE OF HARYANA AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. I.P.S. Kohli, Advocate
for the petitioner (Through V.C.).

Ms. Rajni Gupta, Addl. AG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of order dated 05.05.2025 (Annexure P-3) whereby he has been transferred from the office of SDO 'OP' Subdivision Bahu (Jhajjar Circle) to the office of SDO 'OP' Subdivision Samalkha (Panipat Circile).

2. The petitioner claims that he never requested respondent to transfer him, however, he was transferred vide order dated 23.04.2025 (Annexure P-1) on the ground of 'individual interest'. He preferred Civil Writ Petition No.12246 of 2025 before this Court which was disposed of vide order dated 06.05.2025 as during the pendency of petition, the respondent vide order dated 05.05.2025 substituted ground of transfer from 'individual interest' to 'administrative ground'. The distance between both places is 140 kms.

3. Mr. I.P.S. Kohli, Advocate for the petitioner submits that



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2025:PHHC:065466

employees who were posted at Jhajjar Circle much prior to petitioner are still working but petitioner has been transferred at a distance of 140 kms. It would cause unnecessary mental, financial and physical strain to the petitioner.

4. It is settled proposition of law that scope of interference in transfer matters is very limited. It is the employer or higher authorities who have to decide posting of employees. The Court cannot determine place of posting of employees. The authorities, in the interest of administration as well public interest has to transfer its employees. Transfer is an integral part of service. There is no evidence disclosing that the petitioner has been transferred with *mala fide* intention or there is violation of policy.

5. The Supreme Court in *National Hydroelectric Power Corporation Limited v. Shri Bhagwan and another, 2001 8 SCC 574*, has held that no Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of *mala fide* exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals cannot interfere with such orders, as though they were the appellate authorities substituting their own decision for that of the management.

6. Considering the facts of the present case and judgment of



CWP-14146-2025

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2025:PHHC:065466



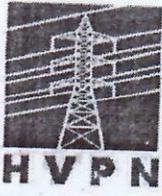
Supreme Court in *National Hydroelectric Power Corporation Limited (supra)*, this Court does not find any reason to interfere with order dated 16.04.2025 (Annexure P-6).

7. In the wake of above discussion and findings, the present petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

16.05.2025
AH

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No



HARYANA VIDYUT PRASARAN NIGAM LIMITED

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To

1. The CE/Admn. & IT, HVPNL, Panchkula.
2. The CE/TS, HVPNL, Panchkula.
3. The CE/TS, HVPNL, Hisar.
4. The CE/TS, HVPNL, Gurugram.
5. The CE/Op. DHBVN, Hisar.
6. The CE/Op. DHBVN, Delhi.
7. The CE/Admn., DHBVN, Hisar.
8. The CE/Op., UHBVN, Panchkula.
9. The CE/Op. UHBVN, Rohtak.
10. The CE/Admn., UHBVN, Panchkula.
11. The CE/Admn., HPGCL, Panchkula.

Diary No. 1369 /dt. 19/8/25

AEE-G

AEE-R

AEE/AE-NG

Supdt.

All Officers

WOC

XEN/LNO

Memo No: 7/LB-2(123)

Dated: 07.08.2025

Subject: CWP No. 19660 of 2025 titled as Sanjay Kumar V/s State of Haryana & Ors.

The aforesaid case came up for hearing on 16.07.2025 and the Hon'ble High Court vide judgment dated 16.07.2025 dismissed the same on the premise that the petitioner as per his own convenience cannot remain dormant at this belated stage. The matter was dismissed on the ground of delay and laches. Judgment dated 16.07.2025 is reproduced here under: -

"Applying the aforesaid judgment, this Court finds no explanation for delay in the instant case. In the instant case, the petitioner approached this Court seeking release of gratuity in 2018. This Court directed respondent to pass speaking order within two months. The respondent passed speaking order on 22.04.2019 (Annexure P-11). The petitioner as per his convenience remained dormant for 6 years and at this belated stage has approached this Court seeking setting aside of said order. The petitioner approached this Court in 2018 which shows that he is a vigilant citizen. He on one occasion had also filed contempt petition. There was no reason to wait for 6 years. The petitioner is trying to rekindle a dead claim. The present petition deserves to be dismissed on the ground of delay and laches and accordingly dismissed."

It is important judgment on the issue of delay and laches. It is therefore, requested to circulate the judgment amongst the subordinate offices under your control for disposal of similarly situated case by placing reliance on the aforesaid judgment. A copy of judgment dated 16.07.2025 is enclosed herewith for ready reference.

DA/As above

Legal Retainer,
For L.R. HPU, Panchkula

CC: -

1. The S.E./XEN/IT, UHBVN, HVPNL, HPGCL, DHBVN, Panchkula/Hisar are requested to upload the judgment dated 16.07.2025 on the website of their utility.
2. The US/GA, UHBVN, Panchkula.
3. The Joint Secy./Legal, HVPNL, Panchkula.
4. The Under Secy./Legal, HVPNL, Panchkula.
5. Dy. District Attorney-I, HVPNL, Panchkula.
6. Dy. District Attorney-II, HVPNL, Panchkula.
7. Aman Dhiman, Legal Consultant, UHBVN, Panchkula.
8. Legal Consultant, HVPNL, Panchkula.
9. Legal Consultant, HPGCL, Panchkula.
10. Law Officer, HVPNL, Panchkula.
11. Law Officer, DHBVN, Panchkula.
12. Law Officer, UHBVN, Panchkula.

Memo No. 5312
Dated 19/08/25

XEN/LNO

CE/Admin.



UNION POWER TRANSMISSION NIGAM LIMITED

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Telephone No. - 0172-2560769, 0172-2571841

13. Legal Officer, UHBVN, Panchkula.
14. ALO-1 UHBVN, Panchkula.
15. ALO-2, UHBVN, Panchkula.
16. ALO-3, UHEVN, Panchkula.
17. ALO, DHBVN, Panchkula.
18. ALO, HVPNL, Panchkula.

Subd.
All Officers

XENLNO



CWP-19660-2025

1

2025:PHHC:085997



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-19660-2025

Date of Decision: 16.07.2025

SANJAY KUMAR

..... Petitioner

Versus

STATE OF HARYANA AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Abhishek Goel, Advocate
for the petitioner (through V.C.).

Ms. Rajni Gupta, Addl. AG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondent to release gratuity for the period he worked as Lower Division Clerk (for short 'LDC') from 21.09.2010 to 14.06.2017. He is further seeking setting aside of order dated 22.04.2019 (Annexure P-11) passed by the respondents whereby his claim for gratuity was denied.

2. The petitioner joined Uttar Haryana Bijli Vitran Nigam as LDC on 14.09.2010. He, in 2012, applied for the post of JBT Teacher. He came to be selected as JBT Teacher. He resigned from the post of LDC and joined as JBT Teacher on 15.06.2017. His resignation was accepted on 17.08.2017. He requested the respondent to pay him gratuity for the period he had worked with respondent. He preferred CWP No.30255 of 2018 before this Court seeking release of gratuity. The said petition came



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to be disposed of vide order dated 30.11.2018 with a direction to respondent to decide petitioner's representation within two months. The respondent did not comply with orders of this Court and petitioner preferred COCP No.684 of 2019 before this Court which came to be disposed of as respondent vide order dated 22.04.2019 (Annexure P-11) rejected his claim.

3. Claim of the petitioner was finally rejected on 22.04.2019. The respondent in compliance of orders of this Court vide order dated 22.04.2019 rejected claim of the petitioner. He did not challenge said order at the earliest. He has preferred instant petition after expiry of 6 years from the date of passing impugned order.

4. On being asked reason of inordinate delay, Mr. Abhishek Goel, Advocate for the petitioner submits that petitioner was approaching Government Authorities after passing of aforesaid speaking order.

5. No hard-and-fast rule can be laid down as to when the High Court should refuse to exercise its jurisdiction in favour of a party who moves it after considerable delay and is otherwise guilty of laches. Discretion must be exercised judiciously and reasonably. In the event that the claim made by the applicant is legally sustainable, delay should be condoned. Where illegality is manifest, it cannot be sustained on the sole ground of laches. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. State cannot deprive vested right because of a non-deliberate delay.

6. A two Judge Bench of Supreme Court recently in '*Mrinmoy Maitty Vs. Chhanda Koley and others*' 2024 SCC OnLine SC 551 has



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2025:PHHC:085997



held that High Court ought to dismiss petition on the ground of delay and laches where there is no explanation of delay. An applicant who approaches the Court belatedly or in the other words sleeps over his rights for a considerable period ought not to be granted the extraordinary relief by writ Courts. Delay defeats equity. High Court may refuse to invoke its writ jurisdiction if laxity on the part of applicant has allowed the cause of action to drift away and attempts are made to rekindle the lapsed cause of action. Multiple communications cannot create cause of action. The relevant extracts of the judgment are reproduced as below:

“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.

10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such



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2025:PHHC:085997



circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.

11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court."

7. Applying the aforesaid judgment, this Court finds no explanation for delay in the instant case. In the instant case, the petitioner approached this Court seeking release of gratuity in 2018. This Court



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5

2025:PHHC:085997



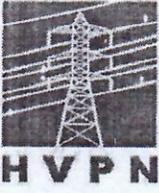
directed respondent to pass speaking order within two months. The respondent passed speaking order on 22.04.2019 (Annexure P-11). The petitioner as per his convenience remained dormant for 6 years and at this belated stage has approached this Court seeking setting aside of said order. The petitioner approached this Court in 2018 which shows that he is a vigilant citizen. He on one occasion had also filed contempt petition. There was no reason to wait for 6 years. The petitioner is trying to rekindle a dead claim. The present petition deserves to be dismissed on the ground of delay and laches and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

16.07.2025

AH

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No



HARYANA VIDYUT PRASARAN NIGAM LIMITED

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To

1. The CE/Admn. & IT, HVPNL, Panchkula.
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3. The CE/TS, HVPNL, Hisar.
4. The CE/TS, HVPNL, Gurugram.
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6. The CE/Op. DHBVN, Delhi.
7. The CE/Admn., DHBVN, Hisar.
8. The CE/Op., UHBVN, Panchkula.
9. The CE/Op. UHBVN, Rohtak.
10. The CE/Admn., UHBVN, Panchkula.
11. The CE/Admn., HPGCL, Panchkula.

Memo No: 101/LB-2(20)

Dated: 07.08.2025

Subject: CWP No. 2793 of 2022 titled as Gyanender Rawal V/s State of Haryana & Ors.

The aforesaid case came up for hearing on 08.07.2025 and the Hon'ble High Court vide judgment dated 08.07.2025 dismissed the same on the premise that higher qualification in line would be considered for selection. Judgment dated 08.07.2025 is reproduced here under: -

"13. I have heard the arguments and perused the record.

14. The conceded position emerging from the record is that the State Government issued instructions dated 16.06.1979 followed by 25.03.2016 underscoring that higher qualification in line would be considered for selection. The respondent in various selections followed this practice, however, did not amend its Rules. The respondent vide Memo dated 17.05.2019 adopted instructions dated 16.06.1979 and 25.03.2016 of the State Government. The requisition for the posts in question was forwarded to HSSC prior to 17.05.2019, however, advertisement was issued on 05.07.2019. The fact of adopting instructions of 1979 and 2016 was uploaded on the Nigam's website. Not only few but a number of candidates having higher qualification participated in the selection process. The petitioners filed writ petitions prior to final result which was declared on 18.12.2021 and revised on 06.07.2022. All the selected candidates have already joined. There are 126 selected candidates possessing degree or diploma who have been selected. They have already joined service and completed probation period.

A candidate having ITI certificate gets lateral entry in diploma and candidates having 3 years diploma have lateral entry in degree. Candidates having ITI certificate are exempted from undergoing first year course in diploma and candidates having diploma are straightway permitted to join in second or third year of degree. 25% posts of JE are earmarked for those employees who are possessing 3 years diploma or degree and working for 3 years as ALM or working on other specified technical posts.

16. The issue involved has been considered by learned Single Judge of this Court in Jagdish Prasad (Supra). In the said case, post in question was of ALM and prescribed qualification was identical to qualification prescribed in the advertisement in question. This Court vide order dated 19.08.2009 rejected contention of the petitioner that diploma/degree holders cannot be considered for the post of ALM. Relevant extracts of the judgment are reproduced as below:-

"Learned counsel for the petitioners submit that even though respondent No.4 was possessing the higher qualification in the same line, he could not be considered eligible, when he did not possess the qualification of two years ITI in Electrician/Wireman Trade or 2 years vocational course under the trade of Lineman conducted by Director, ITI and Vocational Educational, Haryana. However, in support of her

Memo No. 5392
Dated... 18/08/25
Estt.
General
US/NGE
US/Rectt.
DS/T&M
XEN/HR&TRG
XEN/LNO

CE/Admn.

Diary No. 1370 /dt. 19/8/25

AEE-G

AEE-R

AEE/AE-NG

Supdt.

All Officers

XEN/LNO

UOC



HARYANA VIDYUT PRASARAN NIGAM LIMITED

Regd. Office : Shakti Bhawan, Plot No. C-4, Sector-6, Panchkula 134109

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contention. learned counsel did not cite any judgment. On the other hand, learned counsel for the respondents relied upon a Division Bench judgment of this Court in Pankaj Singh Rao's case (supra) as well as the judgments of the Supreme Court in Jyoti K.K.'s case (supra) and State of Haryana and another v. Abdul Gaffar Khan and another, (2006) 11 SCC 153.

After hearing learned counsel for the parties, I do not find any merit in this petition. The Division Bench of this Court in Pankaj Singh Rao's case (supra) has held that the candidates, who were appointed as Junior Engineer (Electrical) and were possessing higher qualification of Degrees of B.E./B.Tech. in Electrical/Electronics Engineering, as against the prescribed qualification of 3 years Diploma in Electrical/Electronics trade, could not be held ineligible for appointment on the post of Junior Engineer (Electrical) and the rejection of their application on the ground that they do not possess the advertised qualification was illegal. The Supreme Court in Jyoti K.K.'s case (supra) has held that the essential qualifications notified by the Kerala Public Service Commission for the post of Sub Engineer (Electrical) in Kerala State Electricity Board included Diploma in Electrical Engineering of a recognised institution. The rejection of applications of the candidates who were possessing the B. Tech Degree in Electrical Engineering was held to be illegal, and it was observed that the qualification of Degree in Electrical Engineering presupposes the acquisition of the lower qualification of Diploma in that subject prescribed for the post and shall be considered to be sufficient for the post. Similarly, the Supreme Court in State of Haryana and another v. Abdul Gaffar Khan and another, (2006) 11 Supreme Court Cases 153 upheld the appointment of the candidates to the post of Unani Dispenser, who were possessing the qualification of Bachelor of Unani Medicine and Surgery, instead of a Diploma in Unani Dispenser or Up-Vaidya, which was the essential qualification prescribed in the advertisement. Therefore, in my opinion, the selection and appointment of respondent No.4 in the instant case cannot be said to be illegal, because he was possessing the Diploma in Electrical Engineer, which is higher in the same line, than the prescribed qualification in the advertisement.

In view of the aforesaid legal position, in my opinion, respondent No.3 has committed no illegality while considering respondent No.4 as eligible and in appointing him on the post of Assistant Lineman in the respondent Nigam."

17. *The said judgment was assailed before Division Bench which dismissed appeal vide judgment dated 07.05.2010. From the perusal of judgment of learned Single Judge as well as Division Bench, it is quite evident that issue involved herein was raised in 2007-09. It was clearly held that three years diploma and degree holder candidates may be considered alongwith ITI certificate holders."*

It is important judgment on the issue that higher qualification in line would be considered for selection. It is therefore, requested to circulate the judgment amongst the subordinate offices under your control for disposal of similarly situated case by placing reliance on the aforesaid judgment. A copy of judgment dated 08.07.2025 is enclosed herewith for ready reference.

DA/As above

Vishal Sharma
Assistant Law Officer,
For L.R. HPU, Panchkula

CC: -

1. The S.E./XEN/IT, UHBVN, HVPNL, HPGCL, DHBVN, Panchkula/Hisar are requested to upload the judgment dated 08.07.2025 on the website of their utility.
2. The US/GA, UHBVN, Panchkula.
3. The Joint Secy./Legal, HVPNL, Panchkula.
4. The Under Secy./Legal, HVPNL, Panchkula.



HARYANA VIDYUT PRASARAN NIGAM LIMITED

Regd. Office : Shakti Bhawan, Plot No. C-4, Sector-6, Panchkula 134109

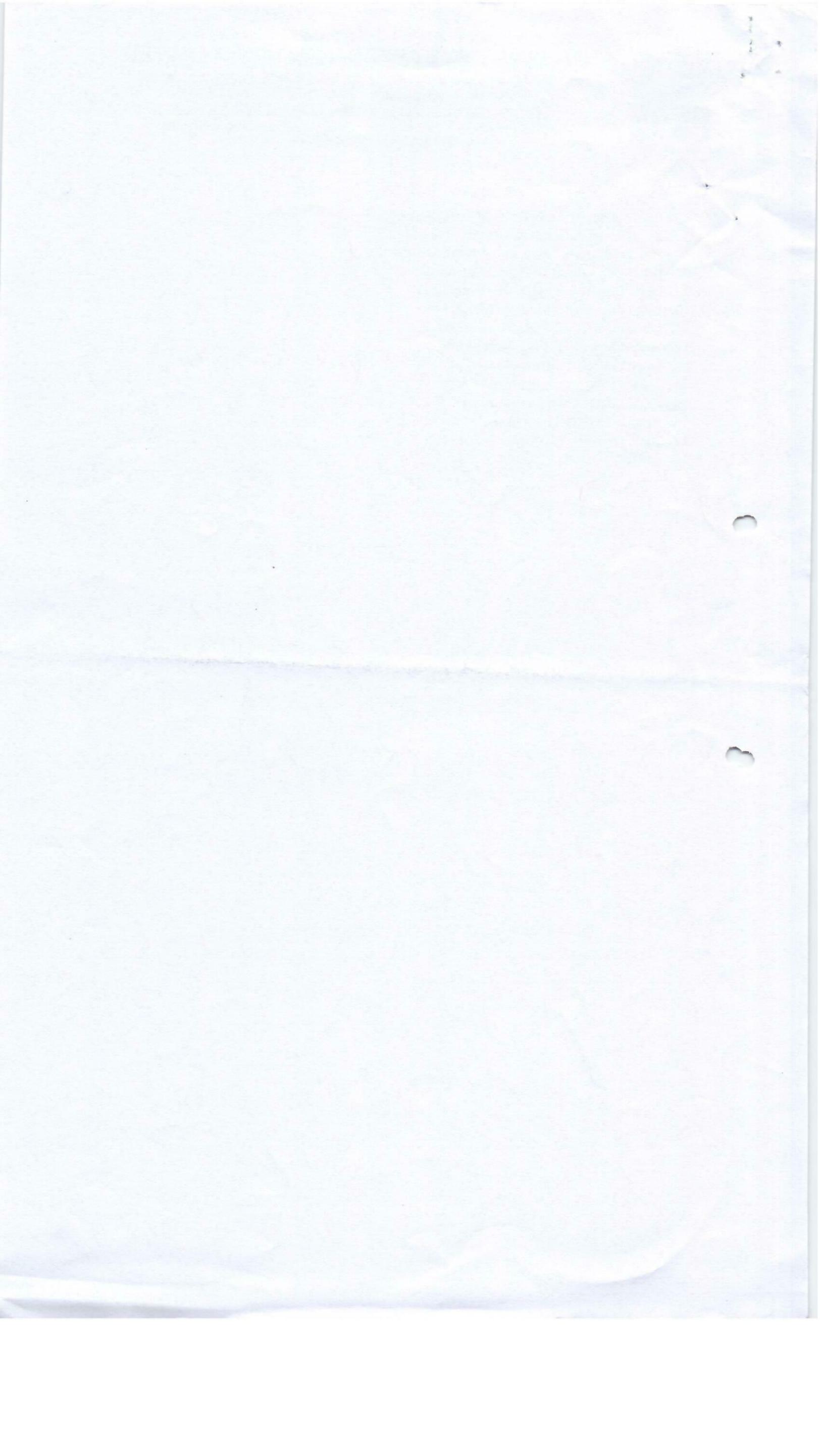
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9. Legal Consultant, HPGCL, Panchkula
10. Law Officer, HVPNL, Panchkula.
11. Law Officer, DHBVNL, Panchkula.
12. Law Officer, UHBVNL, Panchkula
13. Legal Officer, UHBVN, Panchkula.
14. ALO-1 UHBVN, Panchkula.
15. ALO-2, UHBVN, Panchkula.
16. ALO-3, UHBVN, Panchkula.
17. ALO, DHBVN, Panchkula.
18. ALO, HVPNL, Panchkula.





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

CWP-2793-2022 (O & M) and other connected matters

Date of Decision: 08.07.2025

Gyanender Rawal

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

Sr No.	Case Number	Title
2.	CWP-8361-2024	Pardeep and others vs. State of Haryana and anothers
3.	CWP-4275-2022	Vijay Kumar vs. State of Haryana and others
4.	CWP-11195-2022	Dalbir Singh vs. State of Haryana and others
5.	CWP-12350-2022	Naresh Kumar and others vs. State of Haryana and others
6.	CWP-13063-2022	Sanjeev Kumar and others vs. State of Haryana and others
7.	CWP-4789-2022	Satish Kumar and others vs. State of Haryana and another
8.	CWP-3835-2023 (O & M)	Sunil Kumar vs. State of Haryana and others
9.	CWP-13995-2025	Saroj Nai vs. State of Haryana and others

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Rajesh Hooda, Advocate,
for the petitioner(s) (in CWP-2793-2022).

Mr. Ravinder Singh Dhull, Advocate,
for the petitioners (in CWP-8361-2024).

Mr. S.S. Sahu, Advocate
for the petitioner(s) (in CWP-4275-2022).

Mr. Sunil Kumar Nehra (Sirsa), Advocate,
for the petitioner(s) (in CWP-11195-2022).

Mr. G.S. Gopera, Advocate,
for the petitioner(s)
(in CWP-4789-2022 and CWP-3835-2023).

Mr. Jasbir Mor and Mr. Sushil Dhull, Advocates,
for the petitioner (in CWP-12350-2022).

Mr. KDS Hooda, Advocate,
and Mr. Yashwir Singh Hooda, Advocate,
for the petitioner(s) (in CWP-13995-2025).

Mr. Munish Mittal, Advocate,
for the petitioner(s) (in CWP-13063-2022).

Ms. Palika Monga, DAG, Haryana.

Ms. Rajni Gupta, Advocate for respondent-Nigam
(in CWP-13995-2025).

Mr. Hitesh Pandit, Advocate,
for respondent-Nigam.

Mr. G.S. Patwalia, Advocate,
Ms. Lagan K. Sidhu, Advocate,
for respondent Nos.5, 7 and 8.

Mr. Gurnoor S. Sethi, Advocate,
for respondent No.6.

JAGMOHAN BANSAL, J. (Oral)

1. By this common order, above noted writ petitions are hereby adjudicated as issues involved and prayer sought in all the petitions are



common. For the sake of convenience and with the consent of parties, the facts are borrowed from *CWP-2793-2022*.

2. The petitioners through instant petition under Article 226 of the Constitution of India are seeking setting aside of final result dated 06.07.2022 whereby respondent has selected other candidates.

3. The respondent vide Advertisement No.11/2019 dated 05.07.2019 invited applications for different posts including Assistant Lineman (in short 'ALM'). 1307 posts of ALM were advertised *qua* Uttar Haryana Bijli Vitran Nigam Ltd. (in short 'UHBVNL') and 183 posts *qua* Dakshin Haryana Bijli Vitran Nigam Ltd. (in short 'DHBVNL'). The essential qualification for the said post was prescribed as below:-

“Essential Qualification:-

1. Matric with 2 years ITI in Electrician/wireman trade or having 2 years Vocational course under the trade of Lineman or Electrician (Maintenance and Repair of Electrical & Domestic Appliances) conducted by Director, industrial Training & Vocational Education, Haryana or National Apprenticeship Certificate awarded under the Apprenticeship Act-1961 from any institute with a minimum 60% marks in respect of General category & other category candidates and 55% marks of SC category candidates of Haryana domicile recognized by the State Government.

2. Hindi/Sanskrit as one of the subject in Matriculation or Higher.”

4. The petitioners pursuant to aforesaid advertisement applied for the post of ALM. They are possessing ITI certificate or vocational course certificate or apprenticeship certificate. They are not degree or diploma holders. The respondent conducted exam on 14.11.2021 and result was

declared on 18.12.2021. The process of document verification was conducted during 01.02.2022 till 07.02.2022. The final result was declared on 10.02.2022.

5. Learned counsels for the petitioners are claiming that as per essential qualification prescribed in the advertisement, the respondent could not consider candidates possessing diploma or degree in the same line. Diploma/degree is higher qualification and in the absence of specific instruction in the advertisement, higher qualification could not be considered. The Chief Secretary, State of Haryana issued instructions on 16.06.1979 underscoring that wheresoever minimum qualification is prescribed, higher qualification would be considered. The said instruction was reiterated vide communication dated 25.03.2016. The respondent-UHBNL adopted instructions dated 25.03.2016 on 17.05.2019. The requisition for the posts in question was received by Haryana Staff Selection Commission prior to 17.05.2019, thus, there was no discussion about those instructions in the requisition as well as advertisement. In the absence of jotting down government instructions in the advertisement, the respondent was bound to follow terms and conditions of advertisement without deviation. The conditions of advertisement were bound to be followed *stricto sensu*.

In support of their submissions, they rely upon judgment of Supreme Court in ***Zahoor Ahmad Rather and others vs. Sheikh Imtiyaz Ahmad and others, 2019 (2) SCC 404.***

6. Mr. Jasbir Mor, learned counsel for the petitioner in CWP-12350-2022 submits that with respect to Advertisement No.12/2019 dated 20.07.2019, Chief Secretary vide communication dated 10.08.2023 has



formed an opinion that in the absence of averment in the advertisement, higher qualification cannot be considered.

7. Mr. G.S. Gopera, learned counsel for the petitioner(s) in CWP-3835-2023 and CWP-4789-2022 submits that higher qualification in line ought to be considered. The petitioners are holding 3 years' Diploma in Electronics and Communication which is equivalent to Diploma accepted/recognized by Haryana State Board of Technical Education.

8. *Per contra*, Mr. Hitesh Pandit and Ms. Rajni Gupta submit that respondents-UHBVNL and DHBVNL in the previous selections have adopted government instructions dated 16.06.1979. A Full Bench of this Court in *Manjit Singh vs. State of Punjab and others, 2010 (3) SCT 703* has held that candidate possessing higher qualification in the same line cannot be excluded from selection. The respondent has not considered equivalent qualification whereas higher qualification in the line has been considered. ITI is basic qualification and a candidate having qualification of ITI is eligible for admission in diploma course and a candidate having diploma is eligible for admission in degree course. ITI and diploma holder can take admission under lateral entry.

9. Mr. Hitesh Pandit further submits that instructions dated 16.06.1979 read with 25.03.2016 issued by State Government were adopted by UBVNL vide order dated 17.05.2019. The decision was uploaded on the Nigam's website. The advertisement was issued on 05.07.2019, thus, no one was prejudiced. It is not first instance that respondent has recognised diploma/degree holder. On the previous occasions, diploma/degree holders were recognized. Their selection was challenged before this Court and

consistent opinion of this Court was that diploma/degree holder cannot be ignored if higher qualification is in the same line. The respondent vide notification dated 23.02.2004 has earmarked 25% posts of JE for different technical cadres. As per said notification, candidates having 3 years experience are eligible for the post of JE provided they possess 3 years Diploma or Degree in Electrical/Mechanical/Electronic Engineering. This shows that candidates having diploma or degree can be appointed as ALM. If no candidate possessing 3 years diploma or degree can be appointed as ALM, there is no question to consider such candidates for promotional post i.e. JE.

10. Ms. Rajni Gupta further submits that CWP-13995-2025 has been filed after more than 3 years from the date of declaration of final result and joining of selected candidates. The selected candidates joined in 2022. They have already completed their probation period and at present are holding regular post. Any order of this Court disturbing their selection would ruin their life.

11. Mr. G.S. Patwalia, learned counsel for successful candidates submits that similar challenge was made before this Court in **CWP-14779-2017** titled **Jagdish Prasad and another vs. UHBVNL and others**. The matter came to be adjudicated vide order dated 19.08.2009 whereby Court held that higher qualification in line i.e. Degree or Diploma in Electrical Engineering cannot be ignored. Diploma/Degree holders are equally entitled for the post of ALM. In the advertisement prescribed qualification was of ITI. Judgment of learned Single Judge was assailed before DB by way of LPA-121-2010. The said appeal came to be dismissed vide order dated 07.05.2010 passed by Division Bench of this Court.



The petitioners in the writ petition disputed diploma/degree of those candidates who were not having diploma/degree in the line whereas during the course of arguments, they are trying to take somersault and portraying a different picture. They at this stage are disputing degree even in the same line. They have not made successful candidates party to the *lis*, thus, no order can be passed against successful candidates.

The respondents in support of their arguments cited judgments of Supreme Court in *Puneet Sharma and others vs. Himachal Pradesh State Electricity Board Ltd. and another, (2021) 16 SCC 340; Chandra Shekhar Singh and others vs. The State of Jharkhand and others, 2025 LiveLaw (SC) 336* and *Ranjan Kumar and others vs. State of Bihar and others, (2014) 16 SCC 187*.

12. Ms. Palika Monga, DAG, Haryana during the course of hearing produced letter dated 07.07.2025 addressed to Advocate General, Haryana. The said letter has been issued by office of Chief Secretary to Government Haryana. The Government has formed an opinion that higher qualification in line as mentioned in instructions dated 16.06.1979 and 25.03.2016 may be considered only in those cases wherein either this provision has been inserted in the relevant Service Rules or it has been clarified in the requisition being sent to HSSC/HPSC.

13. I have heard the arguments and perused the record.

14. The conceded position emerging from the record is that the State Government issued instructions dated 16.06.1979 followed by 25.03.2016 underscoring that higher qualification in line would be considered for selection. The respondent in various selections followed this practice,

however, did not amend its Rules. The respondent vide Memo dated 17.05.2019 adopted instructions dated 16.06.1979 and 25.03.2016 of the State Government. The requisition for the posts in question was forwarded to HSSC prior to 17.05.2019, however, advertisement was issued on 05.07.2019. The fact of adopting instructions of 1979 and 2016 was uploaded on the Nigam's website. Not only few but a number of candidates having higher qualification participated in the selection process. The petitioners filed writ petitions prior to final result which was declared on 18.12.2021 and revised on 06.07.2022. All the selected candidates have already joined. There are 126 selected candidates possessing degree or diploma who have been selected. They have already joined service and completed probation period.

A candidate having ITI certificate gets lateral entry in diploma and candidates having 3 years diploma have lateral entry in degree. Candidates having ITI certificate are exempted from undergoing first year course in diploma and candidates having diploma are straightway permitted to join in second or third year of degree. 25% posts of JE are earmarked for those employees who are possessing 3 years diploma or degree and working for 3 years as ALM or working on other specified technical posts.

15. The petitioners are assailing selection of candidates holding 3 years diploma or degree on the ground that in the advertisement essential qualification was prescribed and as per prescribed essential qualification only candidates possessing matric with 2 years ITI in prescribed trade were eligible to participate in selection process. Any candidate who is having 3 years diploma or degree but has not undergone ITI course was ineligible. The qualification of ITI was mandatory and sacrosanct. Higher qualification even



in the line cannot be considered because nature of job is such that a candidate having ITI qualification can satisfy the requisition. Higher qualification cannot be considered at all. It is settled proposition of law that Courts should not interfere with respect to qualification prescribed by Recruitment Agency. The Courts cannot recognize equivalent or higher degree. It is employer who has to prescribe qualification. The Courts must tread warily while exercising power of judicial review.

16. The issue involved has been considered by learned Single Judge of this Court in **Jagdish Prasad (Supra)**. In the said case, post in question was of ALM and prescribed qualification was identical to qualification prescribed in the advertisement in question. This Court vide order dated 19.08.2009 rejected contention of the petitioner that diploma/degree holders cannot be considered for the post of ALM. Relevant extracts of the judgment are reproduced as below:-

“Learned counsel for the petitioners submits that even though respondent No.4 was possessing the higher qualification in the same line, he could not be considered eligible, when he did not possess the qualification of two years ITI in Electrician/Wireman Trade or 2 years vocational course under the trade of Lineman conducted by Director, ITI and Vocational Educational, Haryana. However, in support of her contention, learned counsel did not cite any judgment. On the other hand, learned counsel for the respondents relied upon a Division Bench judgment of this Court in Pankaj Singh Rao's case (supra) as well as the judgments of the Supreme Court in Jyoti K.K.'s case (supra) and State of Haryana and another v. Abdul Gaffar Khan and another, (2006) 11 SCC 153.

After hearing learned counsel for the parties, I do not find any merit in this petition. The Division Bench of this Court in

Pankaj Singh Rao's case (supra) has held that the candidates, who were appointed as Junior Engineer (Electrical) and were possessing higher qualification of Degrees of B.E./B.Tech. in Electrical/Electronics Engineering, as against the prescribed qualification of 3 years Diploma in Electrical/Electronics trade could not be held ineligible for appointment on the post of Junior Engineer (Electrical) and the rejection of their application on the ground that they do not possess the advertised qualification was illegal. The Supreme Court in Jyoti K.K.'s case (supra) has held that the essential qualifications notified by the Kerala Public Service Commission for the post of Sub Engineer (Electrical) in Kerala State Electricity Board included Diploma in Electrical Engineering of a recognised institution. The rejection of applications of the candidates who were possessing the B. Tech Degree in Electrical Engineering was held to be illegal, and it was observed that the qualification of Degree in Electrical Engineering presupposes the acquisition of the lower qualification of Diploma in that subject prescribed for the post and shall be considered to be sufficient for the post. Similarly, the Supreme Court in State of Haryana and another v. Abdul Gaffar Khan and another, (2006) 11 Supreme Court Cases 153 upheld the appointment of the candidates to the post of Unani Dispenser, who were possessing the qualification of Bachelor of Unani Medicine and Surgery, instead of a Diploma in Unani Dispenser or Up-Vaidya, which was the essential qualification prescribed in the advertisement. Therefore, in my opinion, the selection and appointment of respondent No.4 in the instant case cannot be said to be illegal, because he was possessing the Diploma in Electrical Engineer, which is higher in the same line, than the prescribed qualification in the advertisement.

In view of the aforesaid legal position, in my opinion, respondent No.3 has committed no illegality while considering respondent No.4 as eligible and in appointing him on the post of Assistant Lineman in the respondent Nigam.



Dismissed.”

17. The said judgment was assailed before Division Bench which dismissed appeal vide judgment dated 07.05.2010. From the perusal of judgment of learned Single Judge as well as Division Bench, it is quite evident that issue involved herein was raised in 2007-09. It was clearly held that three years diploma and degree holder candidates may be considered alongwith ITI certificate holders.

18. Gainful reference with regard to question of holding higher qualification than essential, can be made out of judgment dated 30.10.2023 of this Court in *CWP-23042-2018* titled *Neha Khurana vs. State of Haryana and others*. In this case, candidature of petitioner was rejected on the ground that she did not possess requisite computer course certificate from recognized institution. While allowing claim of the petitioner, Court held that she completed M.Com. from recognized university which is a higher qualification than the requirement of 6 months computer course certificate. Relevant extracts of the judgment are reproduced as below:-

“13. In view of the discussions made hereinabove and the judicial pronouncements, this Court is of the view that the claim of the petitioner is squarely covered by the judgments referred supra as the petitioner possessed higher qualification than the requirement of possessing six months certificate course in computer.”

19. A Full Bench of this Court in *Manjit Singh v. State of Punjab and others, 2010(3) S.C.T. 703* has categorically held that although a candidate having higher qualification may not be entitled to any additional weightage but his right of consideration for selection



cannot be excluded if otherwise he is found in the zone of selection. The relevant observations made by the Bench are reproduced hereinbelow:-

“From the facts on record and dictum of above noticed judgments, it emerges that the candidate possessing higher qualification in the same line cannot be excluded from consideration for selection. It is a different matter that he/she may not be entitled to any additional weightage for higher qualification, but cannot be denied consideration at par with a candidate possessing minimum prescribed qualification. Denying consideration to a candidate having better and higher qualification in the same line and discipline would definitely result in breach of Articles 14 and 16 of the Constitution of India.”

20. The respondents are claiming that for last many years they are considering candidates holding diploma or degree at par with ITI provided it is in the line. The said claim seems to be correct in view of order dated 19.08.2009 passed by this Court in **Jagdish Prasad (Supra)**. It is further apt to notice that 126 candidates have been selected who are diploma or degree holders. It means a number of candidates had applied for the post on the basis of diploma or degree. There were 1307 posts and 126 candidates having higher qualification have been selected. 126 candidates means 10% of the advertised posts. This shows that there was no discrimination with any candidate. Every candidate possessing diploma or degree was given opportunity to participate. The petitioners could have a case had a very few candidates applied or a very few had been selected. In that situation, it could be presumed that act of respondent has prejudiced interest of those candidates who despite possessing higher qualification did not apply on account of lower qualification prescribed in the advertisement.



21. The State Government by notification dated 16.06.1979 declared that higher qualification in line would be considered for the post. The said notification was reiterated vide letter dated 25.03.2016. For the ready reference, relevant extracts of letter dated 25.03.2016 are reproduced as below:-

“Dated Chandigarh the 25th March, 2016

Subject: - Minimum qualification for a post eligibility of candidates possessing higher qualifications than those laid down as minimum.

Sir/Madam,

I am directed to invite your attention to the Haryana Government instructions issued vide letter No.34/93/78-5GS-I, dated 16.06.1979 in which it was decided that if a candidate possesses higher qualification in the same line as prescribed in the minimum qualifications applicable to a particular post, than he should be considered as eligible for that post. It has come to the notice of the Government that the provisions of these instructions are not being followed in an appropriate manner while sending the requisition to HSSC/HPSC for the posts in question.

2. *After due consideration, it has again been decided that if a candidate possesses higher qualifications in the same line as prescribed in the minimum qualifications applicable to a particular post, then he should be considered as eligible for that post. It is therefore directed that the provision that if a candidate as possesses higher qualification in the same line as prescribed in the minimum qualifications applicable to a particular post then he should be considered as eligible for that post, be inserted in the Service Rules and if not inserted in the Service Rules, then it should be clarified in the requisitions being sent to*

HSSC/HPSC. These instructions should be followed meticulously.”

22. The respondent was supposed to either modify its Rules or clarify in the requisition sent to HSSC that higher qualification would be considered. The respondent did not adopt the said mode, however, adopted aforesaid instructions vide Memo dated 17.05.2019. The relevant extracts of the said Memo are reproduced as below.

“Subject: - Minimum qualifications for a post, eligibility of candidates possessing higher education than those laid down as minimum- Adoption thereof.

The State Government instructions No.34/93/78-5-GS-I dated 16.06.1979 and further reiterated by Govt. vide letter No. 10/4/2015-3GSII dated 25.03.2016 regarding minimum qualifications for a post, eligibility of candidates possessing higher education than those laid down as minimum is here by adopted with prospective effect and circulated in UHBVNL for strict compliance (copy enclosed).

This issues with the approval of Chairman-cum-Managing Director, with ex-post-facto approval of BODs of UHBVNL.”

23. From the reading of instructions dated 25.03.2016, it is evident that respondent was supposed to modify service Rules or clarify in the requisition sent to HSSC but it neither modified Rules nor in the requisition sent to HSSC clarified that higher qualification would be considered. However, the respondent vide Memo dated 17.05.2019 adopted instructions dated 16.06.1979 and 25.03.2016. This fact was brought in the knowledge of public at large by way of uploading aforesaid Memo on Nigam's website. The advertisement was issued on 05.07.2019 i.e. almost after 2 months from the date of aforesaid Memo. Filing of application by large number of candidates



holding degree or diploma indicates that public at large was well aware of acceptance of higher qualification. Thus, it cannot be concluded that there is violation of Article 14 or 16 of Constitution of India on the part of respondent.

24. The respondent has issued notification dated 23.02.2004 with respect to promotion to the post of Junior Engineer. It appears from the said notification that 60% posts of JE are filled by promotion. 25% posts are earmarked for technical cadre subordinate staff. Post of ALM as well as LM falls within technical cadre subordinate staff. Relevant extracts of notification dated 23.02.2024 are reproduced as under:-

“Notification

23, Feb. 2004.

No.16/REG-310 In exercise of powers conferred by Clause-C of Section-79 of the Electricity (Supply) Act, 1948 read with Haryana Electricity Reform Act, 1997 and all other enabling powers in this behalf, the Uttar Haryana Bijli Vitran Nigam Limited is pleased to make the following amendments/substitution, in Sub-Regulation 1.5.3 and 1.5.4 of Regulation 1.5.1 in the Recruitment and Promotion Policy of Non Gazetted Technical Staff (as applicable to UHBVNL) notified vide erstwhile HSEB notification No.27/REG-119 dated 10.10.1988 read with notification No.60/REG-137 dated 14.3.1990. Notification No.192/REG-119 dated 19.5.1995 and Notification No.2/REG-310 dated 1.10.2002 regarding filling up the posts of Junior Engineers (Electrical): -

<i>Sub-Regulation No.</i>	<i>Provision now provided in the policy</i>
<i>1.5.3</i>	<i>35% posts instead of 40% posts will be filled up by promotion from amongst the</i>

	<i>AFMs/SSAs/Lab. Asstts. on seniority-cum-merit basis.</i>
1.5.4	<i>25% posts instead of 20% posts will be filled up by promotion on seniority-cum-merit basis such as; AFMs/SSAs/LMs/ASSAs/ALMs/SAs/Lab Attendants/Meter Mechanics./Lab Asstts/Helper Grade-I/Helper Grade-II/RWMs./T.Mates/Draftsmans/Instrument Mech. Etc. possessing the qualification of BE/AMIE in Electrical/Mechanical/Electronics Engineering or 3 Year Diploma in Electrical/Mechanical/Electronics Engineering provided they have 3 Years experience on the above posts in the Nigam for promotion to the post of Junior Engineer.</i>

This issues in pursuance of the decision taken by the Board of Directors, UHBVNL, in its meeting held on 22.1.2004.

25. From the perusal of above quoted notification, it is evident that a person holding post of ALM for last 3 years is eligible for promotion under special quota provided he possesses 3 years diploma or degree. If it is held that no candidate possessing diploma or degree was eligible to participate in the selection process of ALM, there is no question of promotion to the post of JE from the candidates possessing diploma or degree. It indicates that respondent has always recognized diploma/degree in line at par with ITI.

26. Supreme Court in **Puneet Sharma (Supra)** after considering its previous rulings in **P.M. Latha vs. State of Kerala, (2003) 3 SCC 541; Jyoti K.K. /Jyoti K.K. v. Kerala Public Service Commission, (2010) 15**



SCC 596 and *State of Punjab vs. Anita, (2015) 2 SCC 170* has upheld consideration of higher qualification where there is no specific exclusion.

Relevant extracts of the judgment read as under:-

“37. The considerations which weighed with this court in the previous decisions i.e. P.M. Latha, Yogesh Kumar, Anita (Supra) were quite different from the facts of this case. This court’s conclusions that the prescription of a specific qualification, excluding what is generally regarded as a higher qualification can apply to certain categories of posts. Thus, in Latha and Yogesh Kumar as well as Anita (supra) those possessing degrees or post-graduation or B.Ed. degrees, were not considered eligible for the post of primary or junior teacher. In a similar manner, for “Technician-III” or lower post, the equivalent qualification for the post of Junior Engineer i.e. diploma holders were deemed to have been excluded, in Zahoor Ahmed Rather (supra). This court is cognizant of the fact that in Anita as well as Zahoor (supra) the stipulation in Jyoti (supra) which enabled consideration of candidates with higher qualifications was deemed to be a distinguishing ground. No such stipulation exists in the HPSEB Rules. Yet, of material significance is the fact that the higher post of Assistant Engineer (next in hierarchy to Junior Engineer) has nearly 2/3rds (64%) promotional quota. Amongst these individuals, those who held degrees before appointment as a Junior Engineers are entitled for consideration in a separate and distinct sub-quota, provided they function as a Junior Engineer continuously for a prescribed period. This salient aspect cannot be overlooked; it only shows the intent of the rule makers not to exclude degree holders from consideration for the lower post of Junior Engineers.

38. As noticed previously, in addition to the above considerations, an amendment to the rules was made on 03.06.2020 declaring that those with higher qualifications are also entitled to apply or be considered for appointment. This amendment was brought in to clear all doubts and controversies and, in that sense, the amending provisions should be deemed to have been inserted from inception.”

27. The petitioner in the writ petition did not dispute candidature of degree and diploma holders who were having degree/diploma in the line. The said fact is evident from Paragraph No.7 of the writ petition which is reproduced as below:-

“7. That it is pertinent to mention here that even the Respondent no. 3 department has also issued the Notification dated 20.08.2009, whereby, the Minimum qualification for the post of Assistant Linemen has been prescribed as Matric with 2 years ITI in Electrician/wireman trade or having 2 years Vocational course under trade of Lineman conducted by Director, ITI & Vocational Education, Haryana from any institute recognized by the State Government and must have passed Hindi/Sanskrit upto matric standard. A copy of the Notification dated 20.08.2009 is annexed here as Annexure P/3A.”

28. From the reading of above quoted para, it is quite evident that at the time of filing writ petition, the petitioner was assailing selection of candidates who were not possessing diploma/degree in the line. During the course of hearing, the petitioner changed his line of argument and started pleading that even degree/diploma in line cannot be considered. It shows that at the time of filing petition, the petitioner was also of the opinion that degree/diploma in line is considered like ITI certificate.



29. The petitioner heavily placed reliance upon judgment of Supreme Court in **Zahoor Ahmad Rather (Supra)** wherein it was held that higher qualification cannot be considered. During the course of hearing, learned counsel for the petitioner pointed out paragraph Nos. 26 and 27 of the said judgment which are reproduced as below:-

“26. We are in respectful agreement with the interpretation which has been placed on the judgment in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] in the subsequent decision in Anita [State of Punjab v. Anita, (2015) 2 SCC 170 : (2015) 1 SCC (L&S) 329]. The decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] turned on the provisions of Rule 10(a)(ii). Absent such a rule, it would not be permissible to draw an inference that a higher qualification necessarily presupposes the acquisition of another, albeit lower, qualification. The prescription of qualifications for a post is a matter of recruitment policy. The State as the employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. Similarly, equivalence of a qualification is not a matter which can be determined in exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the State, as the recruiting authority, to determine. The decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] turned on a specific statutory rule under which the holding of a higher qualification could presuppose the acquisition of a lower qualification. The absence of such a rule in the present case

makes a crucial difference to the ultimate outcome. In this view of the matter, the Division Bench [Imtiyaz Ahmad v. Zahoor Ahmad Rather, LPA (SW) No. 135 of 2017, decided on 12-10-2017 (J&K)] of the High Court was justified in reversing the judgment [Zahoor Ahmad Rather v. State of J&K, 2017 SCC OnLine J&K 936] of the learned Single Judge and in coming to the conclusion that the appellants did not meet the prescribed qualifications. We find no error in the decision [Imtiyaz Ahmad v. Zahoor Ahmad Rather, LPA (SW) No. 135 of 2017, decided on 12-10-2017 (J&K)] of the Division Bench.

27. While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The State is entrusted with the authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision-making. The State as a public employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these are essentially matters of policy. Judicial review must tread warily. That is why the decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] must be understood in the context of a specific statutory rule under which the holding of a higher qualification which presupposes the acquisition of a lower qualification was considered to be sufficient for the post. It was in the context of specific rule that the decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] turned.”



30. In the aforesaid judgment, Supreme Court distinguished its previous judgment in **Jyoti KK (Supra)** on the ground that in **Jyoti KK (Supra)** there was specific Rule and in the absence of Rules, it would not be permissible to draw an inference that higher qualification pre-supposes the acquisition of another albeit lower qualification.

In the case in hand, as discussed hereinabove, there were Government instructions enjoining that higher qualification in line would be considered. The respondent prior to issuance of advertisement adopted instructions of the Government. The respondent on the previous occasions accepted 3 years diploma as well as degree where qualification of ITI was prescribed. The petitioner himself in the writ petition conceded that diploma/degree in line may be considered. It is only during the course of hearing he took somersault and started pleading that even diploma/degree in line cannot be considered. The case in hand is more close to **Jyoti KK (Supra)** instead of **Zahoor Ahmad Rather (Supra)**. Recently Supreme Court in **Chandra Shekhar Singh (Supra)** has considered question of acceptance of higher degree. In the said case, in the advertisement as well as Rules, it was prescribed that Master's degree in Chemistry and Bachelor's degree in other prescribed trades would be considered. The Court has held that Master's degree in other streams would also be considered valid for the post of Food Safety Officer. The relevant extracts of the judgment are reproduced as below:-

“31. We feel that there is no ambiguity whatsoever in the FSS 2011 Rules or the subject advertisement which can exclude the Master's degree in subjects referred to in the preceding part of the Rule 2.1.3 of the FSS 2011 Rules

(supra), other than Chemistry, as being a valid qualification. The special reference to the Master's degree is given in the said Rule, only for those who have acquired their degree course in Chemistry subject, for whom, the minimum qualifying criterion will be a Master's degree in Chemistry. However, so far as the other subjects are concerned, a person having any degree, be it graduation or post-graduation, would be equally qualified for the post in question.

32. Reading the language of the statutory provision in a literal sense and applying the golden rule of interpretation, this is the only logical and permissible interpretation. Hence, we have no hesitation in concluding that if a candidate, having undertaken a degree course in "Chemistry" subject, desires to apply for the post of FSO, he must possess a master's degree in that subject. However, if a candidate has taken college education in the subjects of food technology; dairy technology; biotechnology; oil technology; agricultural science; veterinary science; biochemistry or microbiology, then such a candidate would be qualified for the FSO post, if he holds any one of the degrees, i.e., either graduation, post-graduation or doctorate degree in any of these subjects. There is no logic or rationale behind excluding the candidates having master's or a doctorate degree in these subjects from staking a claim to the post of FSO because such an interpretation would be totally unjust, arbitrary and unconstitutional."

31. There is another aspect of the matter. If the petitioners are considered for the post, it would disturb appointment of many already selected candidates who had joined service in 2022. They must have settled their family. There is scarcity of job in the country. There is no allegation of fraud,



misrepresentation or connivance against them. They acting bonafidely applied and were selected. If the selected candidates, at this stage, are disturbed, it may ruin their lives. It would not be in the interest of justice and fitness of things.

32. In the wake of aforesaid discussion and findings, this Court is of the considered opinion that instant petitions being bereft of merit deserve to be dismissed and accordingly dismissed.

CWP-3835-2023 and CWP-4789-2022:

33. The petitioners are claiming that they are possessing Diploma in Electronic and Communication which is higher than qualification prescribed in the advertisement and their stream is in the same line as prescribed in the advertisement. The respondent is disputing the said fact.

34. The petitioners are relying upon certificates issued by Haryana State Board of Technical Education, Panchkula. This Court does not find it appropriate to comment upon opinion of Expert Committee of aforesaid Board and leaves it to HSSC to consider claim of the petitioners. If HSSC comes to a conclusion that diploma of the petitioners is in the same line as prescribed in the advertisement, they may be considered for the post. The needful shall be done within 3 months from today.

35. Pending application(s), if any, shall also stand disposed of.

08.07.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
Yes