



DAKSHIN HARYANA BIJLI VITRAN NIGAM

(A Power Distribution & Retail Supply Utility, Government of Haryana)

(AN ISO 9001:2008 Compliant Utility, CIN No. U99999HR1999SGC034165)

Registered Office: Vidhyut Sadan, Vidhyut Nagar, Hisar - 125 005 (Haryana)

Office of the Superintending Engineer/Administration, DHBVN, Hisar

www.dhbvn.org.in ☎ 01662 - 223439, 223108 (Fax), Email: seadmn@dhbvn.org.in & usga@dhbvn.org.in

Memo No. Ch- 108 /SE/Admn/RECT-05/Vol-VIII

Dated: 01.01.2020

To

1. All Chief Engineers in DHBVN.
2. The Chief Technology Officer, DHBVN, Hisar.
3. The Chief Financial Officer, DHBVN, Hisar.
4. CAO/ FA(HQ)/ Chief Auditor/ F&A(MM), DHBVN, Hisar.
5. The Chairman, CGRF, DHBVN, Hisar.
6. The Company Secretary, DHBVN, Hisar.
7. All Superintending Engineers in DHBVN.
8. The Controller of Stores, DHBVN, Hisar.
9. S.E./IT, DHBVN **for uploading the same on website.**
10. The Chief Communications Officer, DHBVN, Hisar.
11. All Executive Engineers in DHBVN.
12. All Sectional Heads with Headquarters at Hisar.

Subject: CWP No. 17101 of 2017 titled as Azad Rakib Versus DHBVN & others.

Please find enclosed herewith a copy of the letter on the subject cited above, received from Ld. Legal Remembrancer, HPU, Panchkula vide office Memo No. 45/LB-2(69) dated 06.12.2019; for your kind information and taking further necessary action at your end, please.

With reference to the subject cited above, the attention has been drawn to judgment dated 06.09.2019 whereby the Hon'ble High Court dismissed the subject cited CWP, filed by the petitioner. The moot question involved for consideration in the case in hand was that whether the petitioner could be retained in services as Assistant Lineman or not, on the basis of Certificates issued by an Institute

which is not affiliated by the Director (Training), Industrial Training Department, Haryana. Furthermore, the certificate was found to be bogus. Therefore, by invoking clauses 7, 9 and 10 of appointment letter, the petitioner was suspended vide order dated 22.03.2017. The above action was upheld vide order dated 06.09.2019 by the Hon'ble High Court in above titled case.

It has also been mentioned in the ibid letter that it is an important judgment on the issue of genuineness of certificates/ documents submitted by the employee during the appointment of the employee and later on, if these prescribed certificates/ documents are found fake/ forged/ illegal, the appointment/ employment can be cancelled at any point of time, whenever the verification is made by the employer. It has been requested in the ibid letter that the above judgment be circulated to offices under your control for applying in the similar situated cases by placing reliance on the judgment dated 06.09.2019 passed by Hon'ble High Court. It has also been requested to direct the concerned IT Wing to host the Judgment dated 06.09.2019 on the website of concerned Power Utility.

This is for your kind information and necessary action at your end, please.

This issues with the approval of the Chief Engineer/HR & Admn., DHBVN, Hisar.

DA: As above


**S.E./Administration,
DHBVN, Hisar**

Copy to:

1. Sr.P.S. to the Chairman-cum-Managing Director, DHBVN, Hisar.
2. Sr.P.S. to the Director/Operations, DHBVN, Hisar.
3. P.S. to the Director/Projects, DHBVN, Hisar.
4. P.A. to the Chief Engineer/HR & Admn., DHBVN, Hisar.

HARYANA VIDYUT PRASARAN NIGAM LTD.

(Govt. of Haryana undertaking)
O/o Legal Remembrancer

Shakti Bhawan, Sector-6, Panchkula

Phone: 0172-2560769, 2571841 Fax: 0172-2560769

E-mail: hr@hvpn.gov.in

From

Legal Remembrancer,
HPU, Panchkula

To

The CGM/Admn.,
UHBVN, Panchkula.

The CGM/Admn.,
DHBVN, Hisar.

The CE/Admn.,
HPGCL, Panchkula.

The SE/Admn, -I & II,
HVPNL, Panchkula.

Memo No. 45/LB-2(69)

Dated: 06/12/19

Subject: CWP No. 17101 of 2017 titled as Azad Rakib V/s State of Haryana & Ors.

Attention is drawn to judgment dated 06.09.2019 whereby the Hon'ble High Court dismissed the subject cited CWP filed by petitioner, the moot question involved for consideration in the case in hand was that where the petitioner could be retained in services as Assistant Lineman or not, on the basis of Certificates issued by an Institute which is not affiliated by the Director (Training), Industrial Training Department, Haryana. Moreover the certificate was found to be bogus. Therefore by invoking clause 7, 9 & 10 of appointment letter, the petitioner was suspended vide order dated 22.03.2017. The above action was upheld vide order dated 06.09.2019 by the Hon'ble High Court in the above titled case.

The relevant extract of judgment dated 06.09.2019 is given

here under:-

"It would be in the fitness of things to extract Clause 7, 9 and 10 of the appointment letter which reads as under:-

"Clause 7 7. The above offer of appointment is being made to you on the distinct understanding:-

7.1. That you actually possess the following qualification and will produce all the original certificates in its support:-

7.1.1 Matric with 2 year ITI in Electrician/wireman trade or having 2 year Vocational course under the trade of Lineman conducted by Director, ITI & Vocational Education, Haryana from any institute recognized by the State Govt.

7.1.2 Must have passed Hindi/Sanskrit up to Matric standard.

Legal Remembrancer	
SE/Admn.	
SA	
PA	
Asst. Secy	

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No. 17/12/19
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U.S./HR-I
U.S./HR-II
U.S./Gen.
J.S./Legal
CENT&M
updt./RTI
E/Admn.
18/12/19

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7.2. That you are not a dismissed Govt. servant or a person convicted of an offence involving moral turpitude. 7.3. That you have not got more than one living wife/you are not married to a person who has got more than one living wife. 7.4. That you fulfill eligibility criteria of age i.e. were not less than 18 years and not more than 35 years of age on the last date of submission of application against Advt.no. 13/2007 Category No 18 and Advt. No. 04/2008 Category No. 1. of HSSC Panchkula. 7.5 That you will produce at your cost, a health and age certificate required during the first entry into service from the Civil Surgeon of your Home District, if you belong to Haryana State or from the Civil Surgeon, Faridabad, if you belong to any other state. 7.6 That you will be required to serve and liable to be transferred to any office under the Dakshin Haryana Bijali Vitran Nigam or any place within the jurisdiction of the Bhakra Management Board, Beas Construction Board, or outside the Haryana State or any other at the discretion of the Nigam. 7.7. If at present you are employed in Central/State Govt./ Semi Govt./ Autonomous Body etc. you will have to resign your present post before you are allowed to join the Nigam's service. It should be clearly understood that you will be treated as a new entrant in the service of the Nigam for all intents and purposes. 7.8 If you are prepared to accept the post offered to you on the above conditions, please signify your acceptance to this office within 15 days.

Clause 9-9. The following particulars/documents concerning your self should also be supplied at the time of joining the duty:- a) All the original certificates in support of your educational qualifications. b) University Matriculation/school leaving certificate in support of your date of birth. c) Medical certificate of fitness required as per 7.5 above. d) An affidavit to the effect that you have not got more than one living wife/you are not married to a person, who have got more than one living wife and are not a dismissed Govt. servant or a person convicted of an offence involving moral turpitude.

Clause 10-10) You are allowed to join the duty without verification of your character and antecedents, which will be got verified in due course of time. In case any adverse facts are reported by the concerned authorities against your character and antecedents your services will be liable to be terminated without any notice."

The law with regard to not possessing requisite qualification on the date of submission of application form and appointment letter being subject to condition of verification of documents, is no longer res integra in view of judgments cited supra, wherein after deliberating on the aforementioned proposition, Hon'ble Supreme Court in Rakesh Kumar Sharma's (supra), has held as under:-

"16. In the instant case, the appellant did not possess the requisite qualification on the last date of submission of the application though he applied representing that he possessed the same. The letter of offer of appointment was issued to him which was provisional and conditional subject to the verification of educational qualification, i.e., eligibility, character verification etc. Clause 11 of the letter of offer of appointment dated 23.2.2009 made it clear that in case character is not certified or he did not possess the qualification, the services will be terminated. The legal proposition that emerges from the settled position of law as enumerated above is that the result of the examination does not relate back to the date of examination. A person would possess qualification only on the date of declaration of the result. Thus, in view of the above, no exception can be taken to the judgment of the High Court.

17. It also needs to be noted that like the present appellant there could be large number of candidates who were not eligible as per the requirement of rules/advertisement since they did not possess the required eligibility on the last date of submission of the application forms. Granting any

benefit to the appellant would be violative of the doctrine of equality, a backbone of the fundamental rights under our Constitution. A large number of such candidates may not have applied considering themselves to be ineligible adhering to the statutory rules and the terms of the advertisement."


Keeping in view the aforementioned facts, action of the respondents in suspending the petitioner, cannot be faulted with. No ground is made out for interference. Writ petition sans merit.

Dismissed. Interim order dated 03.08.2017 is hereby vacated."

It is an important judgment on the issue of genuineness of certificates/documents submitted by the employee during the appointment of the employee and later on, if these prescribed certificates/documents found fake/forged/illegal the appointment/employment can be cancelled at any point of time whenever the verification made the employer. The above judgement be circulated to offices under your control for applying in the similar situated cases by placing reliance on the judgment dated 06.09.2019 passed by Hon'ble High Court it is also requested to direct the concerned Deputy Secretary, Technical to host the Judgment dated 06.09.2019 on the website of concerned Power Utility. A complete copy of judgment dated 06.09.2019 are enclosed herewith for ready reference.

This issues with the approval of L.R.

DA/As above


Dy. Dist. Attorney,
HPU, Panchkula.

CC:-

1. The Director/Technical, HVPNL, HPGCL & UHBVN, Panchkula for hosting on website.
2. The Deputy Secretary/Technical, UHBVN, DHBVN Hisar for hosting on website.
3. The CE OP Circle, UHBVN, Panchkula & Rohtak.
4. The CE OP Circle, DHBVN, Hisar.
5. The Legal Nodal Officer, UHBVN, Panchkula.