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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-29118-2019 (O&M)
Date of decision: 29.04.2024

SURESH KUMAR

...Petitioner

VERSUS

HARYANA STAFF SELECTION COMMISSION AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. B. S. Rana, Senior Advocate with
Ms. Niharika Singh, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the order dated 19.08.2019 (Annexure P-12) and the final selection list dated 08.03.2019 (Annexure P-6) and further to issue a writ in the nature of *mandamus* directing the respondents to correct the final result for the post of Shift Attendant by including the name of the petitioner in the list of selected candidates/final result.

2. The brief facts of the present case are that the petitioner had applied for the post of Shift Attendant in pursuance of advertisement issued by the Haryana Staff Selection Commission vide Annexure P-1, in which the closing date for submission of online application form was 04.04.2016. The

petitioner had applied under Category No.1 for the post of Shift Attendant under the BCA category. The essential qualifications were prescribed in the aforesaid advertisement itself, which are reproduced as under:-

E.Q.:-

i) Matric with 2 years ITI Course in Electrician/Electronics/Wireman trade or Lineman & Electrician (Maintenance & Repair of Electrical and Domestic Appliances) from VEI (Vocational Educational Institute) with a minimum 60% marks in respect of General- Category Candidates and 55% marks of SC category candidates of Haryana Domicile. The percentage marks required for other categories would be same as for General category candidates.

ii) Knowledge of Hindi/Sanskrit upto Matric Standard or higher education.

iii) The weightage of experience to the Contractual workers engaged by any Power Utility would be given as under:-

Weightage of Experience

One percent mark for each completed year of service in the respective category be granted subject to a maximum of eight percent with the rider that the qualifying service should have been in any Power Utility in the same capacity.

3. At the time when the petitioner filled his application form, he attached Provisional National Trade Certificate dated 19.12.2011 issued by the Department of Industrial Training Haryana, wherein detail of marks were given, which is appended at page No.37 of the paper-book and certificate was issued to the petitioner by the Government of India with a title *National Trade Certificate, Ministry of Labour and Employment*, which is appended with the present writ petition at page No.38 of the paper-book. The petitioner had also

appended a certificate issued from the Department of Industrial Training Haryana, which is a State Level Trade Certificate of two years training at page No.36 of the paper-book. The written examination was conducted on 29.05.2016 and the petitioner was shortlisted and since the result was declared on 30.04.2017, the petitioner was called for the scrutiny of documents on 11.05.2017 and thereafter, he was also called for interview, but he was not declared eligible for the aforesaid post and therefore, the present writ petition has been filed by the petitioner for seeking consideration for being appointed on the aforesaid post.

4. Mr. B. S. Rana, learned Senior Advocate assisted by Ms. Niharika Singh, Advocate for the petitioner submitted that as per the aforesaid essential qualifications which are provided in the aforesaid advertisement, the petitioner was required to upload 2 years ITI Course in Electrician/Electronics/Wireman trade or Lineman & Electrician (Maintenance & Repair of Electrical and Domestic Appliances) from VEI (Vocational Educational Institute) but inadvertently, he did not attach the aforesaid certificate of two years ITI course which he had and which is appended with the present writ petition at page No.35 of the paper-book. However, at the time of scrutiny of documents, he had shown the aforesaid certificate which is appended with the present writ petition at page No.37 of the paper-book to the concerned officials and his case was further processed being eligible, but at the time of final result, he was declared ineligible because he did not attach the certificate which was a requirement as mentioned in the advertisement and also the certificate which was attached did not prescribe the duration of the course. He further submitted that even if the aforesaid certificate was not attached with the application form but admittedly,

the petitioner had attached the National Trade Certificate issued by the Government of India, which was a higher qualification because the same could have been issued only after the candidate has done his two years ITI course. He referred to the short reply filed on behalf of respondents No.2 and 3-ITI, wherein it has been so stated that two years ITI course is an essential requirement for recruitment in the State of Haryana and for the purpose of All India recruitment, further one year course was required for getting National Trade Certificate and in this way, the petitioner has taken a three years course in total and therefore, the petitioner could not have been non-suited only on the aforesaid ground.

5. On the other hand, Mr. Kapil Bansal, DAG, Haryana submitted that the petitioner at the time of filling up of the application form admittedly did not attach any certificate pertaining to his 2 years ITI Course in Electrician/Electronics/Wireman trade or Lineman & Electrician (Maintenance & Repair of Electrical and Domestic Appliances) from VEI (Vocational Educational Institute), although he may be having in his possession the aforesaid certificate and his application form and the certificate which he had attached are also attached with the short reply filed on behalf of the Haryana Staff Selection Commission vide Annexure R-1/1, which clearly shows that the petitioner had attached the National Trade Certificate only and not two years ITI course certificate. He again referred to the essential qualifications which were prescribed in the advertisement and submitted that a candidate was required to have 2 years ITI Course in Electrician/Electronics/ Wireman trade or Lineman & Electrician (Maintenance & Repair of Electrical and Domestic Appliances) from VEI (Vocational Educational Institute).

6. Learned State counsel further referred to a provision in the advertisement under the heading of general instructions, wherein it has been specifically provided the list of documents which were to be uploaded with the application form, which is at page No.27 of the paper-book. The relevant portion of the same is reproduced as under:-

DOCUMENTS TO BE UPLOADED WITH APPLICATION FORM

- i) *Scanned Copy of Essential Qualifications i.e, Matric showing Date of Birth and mark sheet of 10+2/Graduation/Diploma/Degree etc.*
- ii) *Scanned Copy of Sport Gradation Certificate in case of Outstanding Sports Persons, duly issued by the Competent Authority.*
- iii) *Scanned Copy of Haryana Domicile Certificate in case of BCA/BCB/SC/PHC/EBPG/ESM/DESM/DFF and women issued by competent authority.*
- iv) *Copy of Challan/credit certificate issued by Treasury/e-Challan as the case may be, in case of candidates who have applied earlier.*
- v) *Scanned Photographs duly signed by the Candidate.*
- vi) *Scanned signatures of the Candidate.*

7. While referring to the aforesaid provision in the advertisement, learned State counsel submitted that the petitioner was required to upload along with the application form scanned copy of essential qualifications, which included his mark-sheet of 10+2/Graduation/Diploma/Degree etc. and admittedly, he did not upload the two years ITI course certificate and therefore, there was no occasion for Haryana Staff Selection Commission to have considered the aforesaid certificate and since that was an essential qualification

for considering the petitioner for the post of Shift Attendant and there was nothing to show that he possessed the aforesaid qualification, he was not declared to be eligible and therefore, Haryana Staff Selection Commission was within its right to have taken a decision that the petitioner was not eligible for the aforesaid post. He also referred to further provision in the advertisement with states that what are the likely causes of rejection of application and the last point of the aforesaid likely reasons of rejection of application form was lack of essential qualification as prescribed in advertisement. He further submitted that the petitioner lacked the essential qualification because the application form was not supported by any document or any certificate and therefore rightly so, Haryana Staff Selection Commission has declared the petitioner as ineligible.

8. Learned State counsel also submitted that it so happened at the time of scrutiny of documents that the Clerk, who was on duty at that point of time inadvertently processed the case of the petitioner to be eligible, but later on prior to any final decision taken and result was declared, it was detected that the petitioner did not fulfil the essential qualification of two years ITI course because there was no such certificate attached along with the application form and therefore, he was declared as ineligible. He further submitted that the mere fact that one mistake was committed by a Clerk would not mean that it will make the petitioner eligible. He referred to a judgment of Hon'ble Supreme Court in *The State of Bihar and others versus Madhu Kant Ranjan and another, 2022 AIR (Supreme Court) 1310* and a Coordinate Bench judgment of this Court in *Anil Kumar and others versus State of Haryana and others, CWP-29247-2022 and other connected cases*, decided on 19.10.2023 in this regard.

9. I have heard the learned counsels for the parties.

10. The short point involved in the present case is that the petitioner, who applied for the post of Shift Attendant did not admittedly attach the certificate of essential qualification i.e. two years ITI course. However, he attached another certificate of National Trade Certificate, which was a one year course but in the aforesaid certificate, the duration of the course was not mentioned. During the course of arguments, learned State counsel has supplied a photocopy of the record of the scrutiny of documents, wherein reason for rejection of the case of the petitioner has been given to be '***not eligible due to duration period of ITI certificate not mentioned***'. The aforesaid document has been supplied by the learned State counsel to the learned Senior Advocate appearing on behalf of the petitioner, during the course of proceedings and the same is taken on record as Mark-'X'. A perusal of the essential qualification which was required as reproduced above was that the candidate must be holding 2 years ITI Course in Electrician/Electronics/Wireman trade or Lineman & Electrician (Maintenance & Repair of Electrical and Domestic Appliances) from VEI (Vocational Educational Institute), which was a condition precedent for application itself. However, it is a case of the learned Senior Advocate appearing on behalf of the petitioner that although the petitioner did not attach the aforesaid certificate of two years ITI course but he had attached one certificate of National Trade Certificate. A perusal of the aforesaid National Trade Certificate would show that in the aforesaid certificate as well there is no duration of course mentioned. However, when respondents No.2 and 3-ITI filed its separate short reply in the present case, it was stated therein that two years ITI course is an essential requirement for recruitment in the State of Haryana

only but for the purpose of recruitment at the National level, further one year course is required.

11. An argument was raised by the learned Senior Advocate appearing on behalf of the petitioner that the National Trade Certificate was a higher qualification. He argued that the aforesaid certificate is a higher qualification because the same cannot be issued unless a candidate has done two years ITI course. However, there is nothing on the record to show as to how the aforesaid National Trade Certificate is a higher qualification. The short reply filed on behalf of respondents No.2 and 3-ITI would show that it only says that for the purpose of recruitment in the State of Haryana, two years ITI course is required and for recruitment at National level, further one year course is required but there is nothing to infer even from the aforesaid reply that the aforesaid National Trade Certificate is a higher qualification. Not only this, the aforesaid National Trade Certificate also did not depict number of years or period of the said course. At the time when scrutiny of documents had taken place or at the time of final selection when the Haryana Staff Selection Commission was to process the case of the petitioner, then in the absence of any certificate by which the petitioner could have fulfilled the qualification as per the aforesaid essential qualification prescribed, there was no occasion for the Haryana Staff Selection Commission to have considered the petitioner to be eligible. It is not a case that the petitioner after realizing his mistake, which he did at the time of filling up of the application form that he had moved any representation or any legal notice or by any method to the Haryana Staff Selection Commission for providing aforesaid certificate of two years ITI course, which he did not do.

Had he supplied the copy of two years ITI course certificate by any method

whatsoever till the time when the final result was declared, this Court could have considered the plea of the petitioner in a different perspective. However, it is an admitted position that there is nothing on the record to show that the petitioner supplied any certificate of two years ITI course to the Haryana Staff Selection Commission.

12. Hon'ble Supreme Court in **Madhu Kant Ranjan's case (supra)** held as under:-

“11. As per the settled proposition of law, a candidate/applicant has to comply with all the conditions/eligibility criteria as per the advertisement before the cut-off date mentioned therein unless extended by the recruiting authority. Also, only those documents, which are submitted alongwith the application form, which are required to be submitted as per the advertisement have to be considered. Therefore, when the respondent No.1-original writ petitioner did not produce the photocopy of the NCC 'B' certificate alongwith the original application as per the advertisement and the same was submitted after a period of three years from the cut-off date and that too after the physical test, he was not entitled to the additional five marks of the NCC 'B' certificate. In these circumstances, the Division Bench of the High Court has erred in directing the appellants to appoint the respondent No.1-original writ petitioner on the post of Constable considering the select list dated 08.09.2007 and allotting five additional marks of NCC 'B' certificate.”

13. A Coordinate Bench of this Court in **Anil Kumar's case (supra) in CWP-29247-2022 and other connected cases** held as under:-

“21. Keeping in view the settled principle of law cited hereinbefore, any candidate, who does not fulfill the eligibility qualification upto the last date, cannot be allowed to compete in the selection process for the post. In the present case, it is a conceded position that on the last date of submission of the application forms which was 05.01.2023, the petitioners were not having the Bachelor degree in Veterinary Science and Animal Husbandary from a recognized University/institution and they were not permanently registered as a Veterinary Practitioner with the Haryana Veterinary Council. Hence, in the absence of the essential qualification required to compete for the post, the petitioners cannot claim eligibility to compete for the post in question and that too in violation of the qualification prescribed in the Advertisement, which is akin to the statutory qualifications prescribed under the Rules for appointment to the post of Veterinary Surgeon, hence, the claim of the petitioners that the qualification mentioned in Clause 6 of the Advertisement should be set aside, cannot be accepted unless and until there is a challenge to the Rules which prescribe the same qualification as mentioned in the Advertisement. It is a conceded position that there is no challenge to the rules governing the service according to which, the post of Veterinary Surgeon is to be filled in the Department of Animal Husbandary & Dairying Department, Haryana.

22. That being so, the qualifications, which have been prescribed under the relevant rules, cannot be set aside on the asking of the petitioners only on the ground that upto the last date of submission of form, they have not been able to obtain the said qualification to gain eligibility to compete in pursuance to the Advertisement Annexure P-1. Hence, the qualification which are statutory provided for being eligible

to the post of Veterinary Surgeon, cannot be set aside by this Court and the prayer of the petitioners is accordingly rejected.

14. In view of the aforesaid totality of facts and circumstances of the present case, this Court does not deem it fit and proper to interfere by invoking its jurisdiction under Article 226 of the Constitution of India since the present writ petition is devoid of any merit.

15. Consequently, the present writ petition is hereby dismissed.

16. Miscellaneous applications, if any, shall also stand disposed of since the main case has been decided.

29.04.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No