

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 1 of 2016

Date of decision:26.10.2016

Satpal & ors.

... Petitioners

Versus

State of Haryana & anr.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Jasbir Mor, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

RAJIV NARAIN RAINA, J.(Oral)

1. Result of the selection has been produced in sealed cover by Ms. Shruti Goyal brought from the Department. It has been opened. The minimum cut off marks for the General Category was 31 marks. Petitioner No.1-Satpal has secured 44.55 marks, whereas Rajesh Kumar-petitioner No.3 is 3rd in the merit list with 51.75 marks. They qualified the selection and deserve appointment on merits. The result is taken on record as mark 'A'.

2. I have heard the learned Law Officer on some doubts expressed by her on the driving licence and I am satisfied on perusal of the photocopy of the driving licence of the petitioner Satpal that the Original Issue Date was 7.4.2006 valid upto May 1, 2017, which authorizes him to drive, among other vehicles, a "TRV-PSV- Bus". The photocopy of the same is placed at pg. 30 of the paper-book. The reverse of the driving licence discloses the Original Issue date with Old Number of licence bearing No. 160573. The other petitioner is in identical position in CWP No.26679 of 2015 holding a valid driving licence to drive TRV-PSV-Bus. In the case of petitioner No.3-

Rajesh Kumar, his candidature was put in doubt because the licence had not been verified which led to filing of the petition. Annex P-12 is the verification in the case of petitioner No.3-Rajesh Kumar and therefore, his documents are in order.

Mr. Jasbir Mor has referred to memo dated October 12, 2015 issued by the Director State Transport, Haryana, Chandigarh, copy placed at Annex P-7 identifying four categories of Heavy Transport Vehicles. Four categories of licences which qualify at par with Heavy Passenger Transport Vehicle(HPTV). One of these vehicles is the TRV-PSV-Bus. Therefore, both the petitioners are eligible and qualified and possess requisite experience in driving Heavy Passenger Transport Vehicles.

Mr. Mor relies on the decision of this Court in CWP No.26679 of 2015 (Vijender Kumar v. State of Haryana & ors.), decided on October 7, 2016 filed in similar circumstances for the same relief. That was a case where objections had not been removed within time, and therefore, the Court thought it unfair to jettison the bona fide claim of the petitioner on hyper technical considerations. If the defect is eminently curable and when remedied it would entitle the petitioner to a right of consideration for appointment as a Driver where persons lower in merit have been appointed. On these premises I would allow Rajesh Kumar's case rendered in the same department and in the same depot of Haryana Roadways. I find no reason why I should not apply the principle in Vijender Kumar's case to the present one.

Having heard learned counsel for the parties, I have no doubt in mind that this petition deserves to be allowed. It is, accordingly, allowed.

A mandamus is issued to the respondents to consider offering appointment

to petitioners No.1 & 3 as Drivers since both of them are eligible for the post and are ranked higher in merit, well above the cut off marks of the General Category. In the event of appointment, both the petitioners would take their seniority from the date the persons lower in merit were appointed from the same selection. Their benefits will be notional till the date of decision in this petition and actual from the date of appointment after which both the petitioners will be entitled to all consequential benefits flowing therefrom. The respondents would undertake the process of completion of formalities including medical checkup and character verification etc. and consider offering appointment to both the petitioners in terms of this order on or before 29.10.2016. As far as other petitioners are concerned, the petition is dismissed as infructuous.

Copy of this order be given to the learned counsel for the parties attested by the Bench Secretary of this Court.

(RAJIV NARAIN RAINA)
JUDGE

26.10.2016
monika

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*